

Political Policing in Wales

“ I wish you to know that there is
no such thing as an investigation
of ‘a politically motivated offence’ **”**

David East
Chief Constable
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IN MEMORY OF JOE HODGES

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CHAPTER 1

INTRODUCTION

1.1 In February 1984, at the invitation of the Welsh Campaign for Civil and Political Liberties, we agreed to hold a public enquiry into aspects of policing in Wales. At our first meeting we decided upon the following particular terms of reference: *To conduct an enquiry into procedures adopted by the South Wales Constabulary and other police forces in their investigations of politically motivated offences in recent years; to consider the implications of those procedures, and to make recommendations designed to foster accountable and legitimate forms of policing in Wales.*

1.2 Once we had accepted this invitation, the decisions which we took about the handling of the enquiry were ours. The recommendations made in this report are ours alone and not those of the WCCPL. However, we pay a great tribute to the WCCPL, both for its initiative in getting the enquiry launched, and for the tireless work of its members, volunteers and supporters in preparing, organising, servicing and raising funds for the enquiry.

1.3 The enquiry was held at the County Hall, Cardiff, from 19th to 23rd March, 1984. We express our thanks to the South Glamorgan County Council for the use of the Council Chamber and for their support for the aims of the enquiry, which was well expressed in an opening statement by the leader of the Council, Reverend Bob Morgan.

1.4 The enquiry heard oral evidence from 41 witnesses, of whom ten were heard in private sessions, and it also received a number of written submissions and documents. We pay tribute to the witnesses, many of whom were recalling for us harrowing experiences which caused evident distress. It is their participation and readiness to come forward which gives the

enquiry its value, and we have quoted their words extensively in this report.

1.5 The enquiry was held in the aftermath of the 'conspiracy trial' which had taken place in Cardiff between September and November 1983. In the official Indictment at this trial, eight defendants were accused of conspiracy to cause explosions between March 1980 and March 1982, and with various particular offences. Of the eight, one failed to surrender to his bail; one was acquitted with the agreement of the Prosecution; one pleaded guilty to the possession of detonators; one was found guilty by the jury of possession of detonators; and four were entirely acquitted by the jury of all the charges against them. Grave disquiet was expressed in Wales about the evidence which emerged at the trial concerning the whole police investigation of the explosives offences. There were calls by WCCPL and by public figures for a public enquiry under the Police Act 1964, which the Home Secretary refused. Because of complaints made by defendants and others, an internal police enquiry is taking place into allegations of police misconduct, conducted by the Assistant Chief Constable of Merseyside, Mr Rawlinson. At the time of writing, no results from this internal enquiry have been made public.

1.6 It was not our object to re-try the conspiracy trial. Clear findings had been made by the jury after a nine week trial in which both sides had been heard. A full account of the trial has been written by John Osmond, in his book *Police Conspiracy?*, published by Y Lolfa, Talybont, Dyfed. We are grateful to John Osmond for allowing us to see an advance copy of the text. We have rather sought to set this trial in the broader context of the surveillance and investigation by the police into alleged political subversives and offenders.

1.7 The enquiry has attracted attention as being the first of its kind in Wales. There have however been recent examples of unofficial enquiries into matters of policing — in particular where a community feels it has no official channels through

which to voice its grievances. Thus, after the National Front meeting in Southall on 23rd April 1979, when 345 people were charged, the National Council of Civil Liberties set up an enquiry under the Chairmanship of Professor Michael Dunnett. In 1980, well before the Brixton riots erupted, an enquiry chaired by David Turner Samuels QC had reported on the bitter grievances of the black community against the tactics of the Metropolitan Police.

1.8 In our opening statement, we expressed our view about our role in these terms:

We make it clear from the outset that we do not claim to have any official status. We are, of course, an unofficial enquiry. The value, we feel, of such an enquiry, is this: that where there are deeply felt anxieties in a community and where official channels appear to offer inadequate reassurance for those anxieties, we believe that a properly conducted unofficial enquiry can be of value. The only authority which such an enquiry can command is such respect that public opinion may give it, to its methods of work, its composition, and the conclusions which it ultimately reaches.

THE ENQUIRY AND THE POLICE

2.1 We believe that the people of a community need an effective police force. The point was well made to us by Mr Dafydd Elis Thomas MP:

It is crucial for our democracy that we should have a police service ... a breakdown of law and order usually benefits those forces of reaction which would seek to instal a more authoritarian form of government.

When offences are committed such as the burning of holiday homes, or the planting of explosives, we accept that the police have a duty to investigate those offences and seek to find the perpetrators. The police are not responsible for the grievances which may have motivated the commission of those offences; though in their operational methods they need to be aware of those grievances, and of the danger of exacerbating them by insensitive handling of an investigation.

2.2 It is also crucial, for the development of democracy, in Wales as elsewhere, that people should have the right to campaign actively for political change, without intimidation or harassment. To suppress that right can lead to stagnation and apathy, or worse, to a greater scale of violence. The key question for our enquiry has been: how can the police legitimately investigate criminal offences, while avoiding the danger of intimidation or harassment of those who are involved in political activity?

2.3 In answering that question, two words in our terms of reference are of the utmost importance; we were concerned 'to make recommendations designed to foster *accountable* and *legitimate* forms of policing in Wales'. By 'legitimate' we mean that there should be a clear and enforceable body of law within which the police should operate. Legitimate policing means, of course, that the police should obey the law, and that if they do

not, effective means should be available for disciplining the offending officer and for giving redress to the victim. But beyond that the concept of legitimacy involves there being in existence laws which regulate what the police may and may not do. In many areas of policing, we believe such laws to be lacking.

2.4 Within the framework of the law the police also operate a considerable degree of discretion and judgement, for example as to what priorities should be accorded to what investigations, into what crimes, with what equipment, and with what methods of investigation. By 'accountable', we mean that in making such decisions a police force should be guided by, and answerable to, the community which it is policing. If it is not so accountable, the police force has little hope of obtaining the consent and co-operation of its local community, which is vital to its ability effectively to fight crime. Therefore, in seeking to foster legitimate and accountable forms of policing, we are seeking to strengthen the police.

2.5 We emphasise also that we have only been concerned with a limited part of the operations of the police. Indeed, our witnesses made a number of references to the assistance which they had received from the police in Wales. We heard that officers who had made arrangements for the policing of demonstrations usually behaved with courtesy to the organisers of the demonstrations; and that relations with local community policemen were often excellent. Even within the forces which investigated the explosives offences, witnesses were meticulous in pointing out some officers who had behaved with complete propriety. We were impressed that the witnesses, even those who had suffered considerably, were not anti-police. They were, however, anti-bad police, and so are we.

2.6 The enquiry exchanged a number of letters with Mr David East, Chief Constable of the South Wales Constabulary. We should make it clear that Mr East, who was appointed in 1983,

was not responsible for the South Wales Constabulary during the period which we were investigating. The only reference to Mr East personally in the evidence before us came from Michael Antoniow, a member of the South Wales Police Authority, who said:

he describes himself as a people's policeman and I have no reason to criticise him up until now; he has been extremely co-operative in the few matters that I have raised with him.

2.7 We think it right to disclose in full our correspondence with Mr East. It makes clear our keen desire to have had some appropriate participation by the police in our enquiry.

14 Feb. 1984

Dear Mr East

I am writing on behalf of the independent tribunal, composed of Lord Gifford QC, Dr John Davies and Mr Tony Richards, which is due to commence its enquiry on March 19th in the South Glamorgan County Council Headquarters, Cardiff. This, the tribunal's first communication to you, is to inform you of its terms of reference, intentions and its interest in seeking police co-operation. At their first meeting on Feb. 6th the tribunal members decided not only to solicit your support but also indicated their willingness to discuss with you, either in private or public, any allegations which may be made against officers of your force.

The tribunal's terms of reference are as follows: 'To conduct an enquiry into procedures adopted by South Wales Constabulary and other police forces in their investigations of politically motivated offences in recent years. To consider the implications of those procedures and make recommendations designed to foster accountable and legitimate forms of policing in Wales.'

The tribunal members understand that you have received but not answered a letter from the Chairperson of WCCPL, dated Feb. 1st, 1984. The members wish to make it clear that they are in no way bound by and were not party to that letter and in so far as any statement therein conflicts with the above terms of

reference then the contents of this letter prevail.

The tribunal members are fully aware of the rules of sub judice concerning offences alleged to have been committed by Gareth Westacott and have no intention of being in breach of such rules. Consequently, they would appreciate direct communication from your office regarding any steps and decisions you may take in response to this letter. In particular, Lord Gifford, the legal member of the tribunal, wishes you to know that he is willing to discuss with you any matters arising out of this letter. He is abroad until Feb. 27th but is contactable thereafter at his chambers at 35 Wellington Street, London, WC2.

17th February, 1984

Dear Mr Thomas,

I thank you for your letter of the 14th February, 1984, which I have received today.

I have discussed the question of attendance of officers of the South Wales Constabulary at the unofficial Tribunal with the Director of Public Prosecutions, and he shares my view that it is impossible for officers to attend for the following two main reasons, apart from other considerations:—

(a) As you point out in your letter, the man Westacott is still wanted to stand trial in connection with matters dating back to 1981. In these circumstances, for the police to be involved in any discussion concerning related matters would prejudice a fair trial.

(b) You are aware that there is an official enquiry under the Police Act being conducted by Mr Rawlinson, Assistant Chief Constable of the Merseyside Constabulary. If the very serious allegations against officers of this Constabulary prove to be well founded those officers may well face trial themselves for perjury and/or conspiracy. It is, therefore, clearly impossible for those same officers to answer questions whilst they themselves are under investigation.

I note with interest the unofficial Tribunal's terms of reference and I wish you to know that there is no such thing as an investigation of 'a politically motivated offence'. This Police

Force investigates allegations of crime and my officers and myself are strictly accountable in the way laid down by Parliament.

Yours sincerely,

David East
Chief Constable

18th March 1984

Dear Chief Constable,

Thank you for your letter of 17th February to Mr Thomas about the Inquiry which my two colleagues and I will be holding this week. I apologise for not replying sooner, but we thought it right to meet together to consider the matters which you raised.

We propose tomorrow to make an opening statement in which we shall make clear that the Inquiry does not intend to make definitive findings about specific incidents involving named police officers. Rather, as the terms of reference indicate, the purpose of the Inquiry is to discover what procedures and policies, if any, are adopted in relation to the investigation of politically motivated criminal offences, and to make some sensible recommendations.

In the circumstances we would not be seeking to question officers about particular incidents, and we accept your point that in some cases to do so might prejudice the position of officers where conduct may be the subject of proceedings.

We are satisfied also that our approach will avoid any possible prejudice to the trial of Mr Westacott, should it take place. I have sought the guidance of the Attorney General on this point, and will be bearing his advice well in mind.

We hope that this clarification has been helpful, and we repeat that we would welcome the involvement of the South Wales Constabulary in the Inquiry. We invite you, or any officer appointed by you, to discuss with us the issues which may be raised, and we will, in fairness, indicate to you at the end of the

week the nature of the issues which may have caused concern, and on which your views would be appreciated.

Yours sincerely,

Lord Gifford

21st March, 1984

Dear Lord Gifford,

Thank you for your letter of the 18th March, 1984, the contents of which I have noted.

I am following the progress of your unofficial inquiry as reported by the media with great interest. For reasons already explained to you I regret that I am unable to be present or represented.

This is particularly unfortunate because had the South Wales Constabulary been represented a great deal of what has been reported in the media would have been most strenuously challenged.

In the circumstances, of course, I can do no other than reserve my position.

Yours sincerely,

David East
Chief Constable

23rd March, 1984

Dear Chief Constable,

Thank you for your letter of 21st March. We note that you challenge the allegations which have been reported in the media.

In our letter of 18th March we accepted that there were reasons which made it inappropriate for Police Officers to answer *particular* allegations before the Inquiry. However, we do think that it would be valuable to meet with you so that you

can deal *generally* with certain important topics on which concern has been expressed, in public and in private, during the course of our Inquiry.

These are:

(1) The functions of Special Branch, the guidelines under which it operates, and its accountability.

(2) The policy of the South Wales Constabulary regarding:

(a) surveillance;

(b) phone-tapping;

(c) the use of informers;

and the control over possible abuse of these methods.

(3) The practice which is alleged to exist of taking photographs of participants in demonstrations.

(4) The alleged failure to afford access to solicitors, or to inform relatives when suspects in the recent Cardiff Explosives Conspiracy Trial were arrested.

(5) The value of video and/or tape recorders at Police interviews of suspected persons.

(6) The training of Police Officers in the social and political history of their communities.

(7) The control of visiting Police Officers when conducting investigations in South Wales.

The reasons which you have so far advanced for not taking part in our Inquiry would not preclude your giving us a statement on these matters. On the contrary it would be to the public advantage if we could be informed of your views before we make our own recommendations.

We, therefore, again invite you to meet with us, either in public session or privately at a date to suit your convenience.

Yours sincerely,

Lord Gifford, Q.C.

26th March, 1984

Dear Lord Gifford,

I refer to your letter of the 23rd March last, and the seven topics you raise. Bearing in mind your capacity as the Chairman

of the unofficial tribunal organised by the Welsh Council for Civil Liberties, I find it interesting that you should publish the contents of the letter at a press conference before I had an opportunity to consider an answer. Such a course of action might be interpreted as an attempt to embarrass the South Wales Constabulary and to pressurise me for reasons best known to you and your colleagues.

The South Wales Constabulary maintains an open policy. With two exceptions, the questions you raise can all be answered quite simply. Indeed for the most part the issues are well debated and the answers are matters of public record. *I emphasise that these questions would be answered if asked by any member of the public and it is on this basis alone that I convey the following information.*

I am unable to comment on your points 4 and 7 which, as you are well aware, are aspects included in the investigation being carried out currently by Mr Peter Rawlinson, the Assistant Chief Constable, Merseyside.

1. The functions of the Special Branch and their accountability are laid down nationally and followed meticulously by this Police Force. I refer you to the Minister of State for the Home Department's comments in the House of Commons and reported in Hansard dated 7th November, 1979, and 21st December, 1983.

2. Any use of surveillance or informants is strictly controlled by senior officers who are directly answerable when considering such tactics to me. Such considerations are very infrequent. With regard to 'phone tapping: as you are no doubt aware, this cannot even be considered without the express authority of the Home Secretary. (See Hansard dated 21st April, 1982.)

3. It is not the usual practice of this Constabulary to take photographs at demonstrations. However, where there is good reason to anticipate a breach of the peace or the commission of other offences, the police are justified in obtaining photographic evidence. Film is sometimes taken for the training of officers in crowd control techniques. Of course, many people, including the media, take photographs on such occasions.

5. I agree there is value in the use of video or tape recorders during police interviews. There are, however, considerable financial and logistic problems attached to what seems a simple suggestion. *I very much wish that the police interviews in connection with the trial you have been considering had been recorded.* The tape recording of interviews is currently being evaluated on an experimental basis by the Home Office in other police forces, and this has been extensively reported upon in the media recently.

6. Police recruit training has been extended this year from 10 to 14 weeks with the principal objective in mind of enhancing community/social education for police officers. You may be interested to know that Mr Dafydd Elis Thomas, M.P., has lectured at this Headquarters on five occasions in the last two years. He was made welcome as recently as the 29th February last.

Officers of the South Wales Constabulary are recruited almost exclusively from Wales and this you may think goes some way towards meeting the point you make.

I repeat that these answers would be readily available to any interested party. In view of the publicity you gave your letter and in the public interest, I have sent a copy of this reply to the Editors of the local media.

Yours sincerely,

David East
Chief Constable

30th March 1984

Dear Chief Constable,

Thank you for your letter of 26th March. There was no intention to embarrass or to pressurise. The inquiry had been held in public, and it was natural for us on the last day to state publicly what steps we were taking to obtain the views of the police on the issues which had been raised.

The information which you have supplied will of course be taken into account during our deliberations. We note that you have not replied to our suggestion of a meeting, and we re-iterate that we think it would be valuable to meet, in order to understand your view on the issues raised in greater depth than would be possible in correspondence.

Yours sincerely,

Lord Gifford

3rd April, 1984

Dear Lord Gifford,

I thank you for your letter of 30th March, 1984, the contents of which have been noted.

Yours sincerely,

David East
Chief Constable

CHAPTER 3

THE HISTORICAL BACKGROUND

3.1 Throughout the enquiry we were conscious that the conflicts we were investigating were not new. Indeed, in Wales, perhaps more than elsewhere in Britain, a study of 'political policing' must take account of the reasons why people have grievances, of the nature of those grievances, of the response of authority in the past and of the pressures which impel the police to act as they do. In this chapter we look at past conflicts between the people of Wales and the forces of law and order and at the grievances now present within Welsh society.

3.2 Tumult and disturbance were endemic in pre-industrial Wales as they were in other pre-industrial societies, but such turbulence rarely had articulated political motives. In the early nineteenth century, with the onset of rapid industrialization, the marked rise in population and the growth of mass communities, there arose new tensions and new threats to public order. Wales, both industrial and rural, became the scene of a remarkable series of commotions, including the Merthyr Rising of 1831, the Newport Rising of 1839, the Rebecca Riots of 1839-43 and a host of Food Riots, Enclosure Riots and bitter industrial disputes. Local agencies of law enforcement consisted of little beyond parish constables, for there was a deep-seated antagonism towards the idea of established police forces, partly on libertarian grounds but mainly on the grounds of cost — the possibility of disorder being more tolerable than the certainty of heavier rates. The cultural distinctiveness of Wales, it was considered, was a cause of the country's turbulence. The Welsh language, once believed to be a barrier against radicalism, was, by the 1840s, seen as the 'secret language of sedition'.

3.3 Regular police forces were created in the 1840s in five of the Welsh counties and the other eight followed suit in 1856.

Their establishment coincided with a decline in tumult and riot. The nascent Welsh middle class reacted to the provocative *Report on Education in Wales* (1847) by vigorously asserting its social control over those within its power and by stridently declaring the essential respectability of the Welsh. Such efforts were particularly effective in the rural areas where Nonconformity was dominant and where the community, progressively drained of its excess population after 1850, enjoyed a degree of modest prosperity. In the industrial areas, too, the later nineteenth century was something of an age of equipoise. The rapid expansion of employment opportunities in the south Wales coalfield blunted the edge of social protest, notions of self help gave rise to a wide variety of working class organisations and the growth of democracy provided increasing opportunities for law-abiding political action. There was a strong desire to forget the turbulence of preceeding decades and by 1866, Henry Richard, soon to be MP for Merthyr, felt he could justifiably claim that 'anything like sedition, tumult or riot is very rare in the principality. There is no part of the country where the hand of authority is so little seen and so little needed.'

3.4 By the first decade of the twentieth century, the alliance forged during the 'age of Equipoise' between the middle and the working classes, an alliance cemented by Nonconformity and finding expression through the Liberal Party, was collapsing in the face of the break-neck speed of industrial development, the fall in the value of working class incomes, the decline in religious belief and the rise of socialist (and, in particular, syndicalist) ideas. There was serious unrest in 1910, 1917, 1919, 1921 and 1925; at least eighteen major disturbances over blacklegs occurred during the Miners' Lockout of 1926 and, in the 1930s, the campaign against company unionism, demonstrations against fascism and protests against the curtailng of unemployment benefit led to frequent prosecutions, including, in 1936, the largest mass trial of industrial workers ever held in Britain.

3.5 During the 1920s and 1930s the calling in of outside

forces was the subject of regular protests when the Glamorgan Joint Standing Committee discussed the Chief Constable's Annual Report. Other aspects of the policy of the county's Chief Constable, Lionel Lindsay, came under attack. Will Paynter, one of the leaders of the South Wales Miners' Federation, declared that the Glamorgan Constabulary was recruited almost exclusively from ex-Guardsmen who saw themselves as 'storm troops in the mining valleys of south Wales' and Arthur Horner, the Federation's president from 1936 to 1946, stated in 1936: 'The arch-thug is the Chief Constable of Glamorgan who does not hold his job by the voice of the people or the wishes of the Standing Joint Committee but by the desire of the capitalists.' In 1927, Aneurin Bevan, commenting on the situation in western Monmouthshire, considered that 'affairs have reached a point in the district in which the police were rapidly losing control of the civilian population', a development which he apparently welcomed, to judge by his remark in 1929: 'There still remains, unfortunately, a degree of law-abiding conduct ... among the miners of the district.'

3.6 In seeking to obtain the conviction of defendants accused of politically motivated offences, the prosecution was hampered by the intense solidarity of the coalfield community. When twenty-four defendants appeared before the Monmouthshire Assizes in 1932 following disturbances in the anti Company Union campaign, it proved impossible to find a single civilian witness for the prosecution and, during the trial of anti fascist protesters at Swansea in 1936, Elwyn Jones for the defence commented: 'The prosecution have failed to find a single man or woman in the huge crowd to come forward and support the story the police are putting forward.' Following disturbances in the Rhondda in 1932, the Chief Constable of Glamorgan admitted that 'definite proof was difficult to obtain', a consideration which, he argued, made it 'important to provide the political background of the defendants.' In the case that followed, the bulk of the prosecution evidence was of a political nature, causing the *Manchester Guardian* to demand an enquiry on the grounds that 'politics were used to sway the judgement'.

3.7 The main victims of political policing in the inter-war years in Wales were the members of the Communist Party. With a few exceptions, the supporters of the Labour Party, representatives of the mainstream of Welsh politics, distanced themselves from the disturbances and the prosecutions that followed. They distanced themselves also from another tradition of conflict with the forces of law and order that was developing in Wales — that of the nationalists. The main episode in the nationalist tradition of direct action is the burning of the Bombing School in 1936, a seminal event in the history of the Welsh-speaking community. In the subsequent trial at Caernarfon, the eloquent speech made by Saunders Lewis, the President of Plaid Cymru, concerning the rightfulness of breaking the law of the land in the name of a higher law gave, in certain Welsh patriot circles, a degree of acceptability to the notion of committing limited acts of violence against property. That acceptability was central to the development of the Welsh Language Society (*Cymdeithas yr Iaith Gymraeg*), established in 1962 in the wake of Saunders Lewis's radio lecture, *Tynged yr Iaith* (the fate of the language). Over the years the Society has been involved in direct action over a number of issues, in particular campaigns for Welsh road-signs and for a Welsh language television channel. As a result, its leaders have on three occasions been prosecuted for conspiracy and its members have been defendants in innumerable other court cases.

3.8 Those prosecuted were, as often as not, sons and daughters of the professional middle class, young people who would otherwise have been unlikely to come into contact with the courts. For the magistrates, their activities caused acute embarrassment, relentlessly probed by the late Alwyn Rees, editor of the journal *Barn* (Opinion). He fostered what was virtually a revolt by the Bench in the late 1960s when some magistrates contributed to fines which other magistrates had imposed upon language activists. Alwyn Rees also highlighted the difficulties faced by the police, arguing that the 'police had a right to know and to understand'. That some policemen were

aware of a dilemma is suggested by a passage in the autobiography of John Hughes (*O'r Llain i'r Llys*), head of the CID of the North Wales Police from 1966 to 1969: 'It was difficult for a simple Welshman, who had not forgotten the derision and mockery of some English officers during army days, to prosecute young men for showing their enmity towards the English state in Wales.' A more general reaction among the police, however, was to assume that radical movements on the fringe of Plaid Cymru are inherently subversive.

3.9 Thus, there developed in Wales two distinct traditions of politically motivated activity leading to confrontation with the forces of law and order. After the Second World War, an attempt to bridge the gap between them was made by the Welsh Republican Party, a small group which enjoyed a fitful existence in the late 1940s and early 1950s. In the recent past, a revival of interest in the left wing, inter-war tradition of direct action has occurred following the publication of the work of a new generation of Welsh historians and the onset of severe economic depression. At the same time, a number of the supporters of the nationalist tradition were radicalised by their experience of courts and prisons and became convinced that their aspirations could not be fulfilled without challenging the fundamental power structures in Wales. This caused them to see themselves as inheritors of the two strands of dissidence in Wales.

3.10 It was with the intention of combining socialism and nationalism in a coherent social analysis and in vigorous political action that the Welsh Socialist Republican Movement was founded in January 1980. The energies of its members were focused upon analysis rather than action and deep ideological divisions soon appeared among them. Calls for a new strategy were made following the rejection of the Devolution Proposals in 1979 and the election of a right-wing Conservative government in that year, occurrences which appeared to signal the end of the old pattern of Welsh politics.

The increasing fragility of Welsh rural society and the deepening crisis of the Welsh industrial economy added urgency to those calls. Rural Wales has traditionally been considered the heartland of the Welsh language. It is also an area of low incomes and of relative deprivation. The existence of 30,000 holiday homes in Wales is widely viewed as the clearest symbol of the decay of Welsh rural society and a campaign against them was launched by the Welsh Language Society in 1972. One of the most valuable natural resources of rural Wales is water; Welsh reservoirs supply over a thousand megalitres of water a day to England, where water charges are markedly lower than they are in Wales, causing water to be a potent source of grievance.

3.11 Perceived as far more threatening to the wellbeing of the Welsh people is the rapid erosion of the economic base of industrial Wales. The most dramatic decline is that in metal manufacturing where, between 1977 and 1981, the numbers employed fell from 80,300 to 40,000, but other sectors of the economy have suffered almost as severely. With the unemployment rates in parts of Wales now exceeding 25%, there are fears that a depression on the scale of that of the 1930s is a real possibility. In the 1979/80 session the House of Commons Committee on Welsh Affairs in its Report stated in paragraph 28: 'Repeatedly, witnesses have expressed their concern that dangerous social tensions will arise if the responses to our unemployment problems are inadequate. ... The Wales TUC told us, "people will not accept change at the rate being forced upon them at the present time without protest and if we have protests en masse regularly without effect then it will go beyond the bounds of protest and into other areas. It is a very worrying feature of the present situation and one to which none of us have the real answer, because we do not cure these problems by employing more police, or thinking of using the army. There are, however, very real possibilities of disorder in this country unless we get some sense and gentleness into the manner with which we effect change." It is an assessment we reluctantly share ... We are impressed by the conviction of

some of our witnesses who stress the risks of serious social disorder if there were to be very high and chronic levels of unemployment particularly amongst the young ... when real risks abound, it is imperative that the politics of prevention be practised.'

3.12 The acceleration of the arms race is a further cause of grievance. Among the Welsh people, with their strong socialist and Christian pacifist traditions, support for nuclear disarmament has been considerable. The Welsh County Councils have joined together to declare Wales a nuclear free country and the Greenham Common campaign began following a march initiated in south Wales.

CHAPTER 4

CHRONOLOGY OF EVENTS

4.1 *Holiday Houses Arson Campaign.* The first arson attacks on empty, second homes took place on December 12th, 1979. In the winter that followed over 30 houses were burnt. To date 96 houses have been attacked, the majority being in North Wales. Damage to property is estimated at half a million pounds. A couple of expensive, English-owned boats and caravans have been destroyed. In Wales there are believed to be some 30,000 second homes. In Gwynedd, North Wales, there are an estimated 14,000; in 1976 there were 8,500. In a decade house prices in the Llŷn peninsula where one dwelling in four is a holiday home have more than quadrupled. 11 cottages have been attacked in that area. The proportion of Welsh speakers in Gwynedd declined from 71 per cent in 1961 to 61 per cent in 1981.

4.2 Police enquiries into the arson campaign have been largely frustrated by public silence. Mr David Owen, Chief Constable of North Wales, is concerned by this lack of public support for the police and has criticised leading figures in North Wales for failing to condemn the arsonists. In January 1984 he also stated that 'When you think in terms of the nationalist cause the mind may become blunted.' In 1984 a 16 year old boy was found guilty of causing fire damage to a holiday home near Harlech. Mr Owen commented 'When you get a 16 year old boy who says "I did this for my country" everybody should stop and ask himself why a boy should say a thing like that.' The politically motivated arson campaign continues.

4.3 In January 1980 the Welsh Socialist Republican Movement was founded.

4.4 In March 1980 the BBC Nationwide programme screened a report on the arson campaign, which included an interview

with Robert Griffiths, and shots in silhouette of a man who was presented as a member of MAC (the organisation alleged to be behind the arson).

4.5 On March 19th 1980 an incendiary device was left at Porth Madog Railway Station, Gwynedd, which did not go off. On March 27th/28th, two similar incendiary devices were left at Conservative Party offices in Whitchurch, Cardiff, and at Shotton, which also did not go off.

4.6 *Operation Fire: March 30th 1980.* Over the Palm Sunday weekend, 1980, the four Welsh police forces engaged in an exercise to combat the second homes arson campaign: commonly called 'Operation Fire'. 52 people who were either detained, arrested or affected chronicled their experiences in the publication of WCCPL entitled *Operation Fire* which was submitted as evidence to the enquiry. None of these was charged though many were detained, sometimes illegally, searched, strip searched, threatened, abused, interrogated, detained for up to three days, refused access to families and lawyers, stripped of personal possessions and subjected to political interrogation. Complaints through the police complaints procedure were held to be unfounded — though two people eventually obtained compensation through the threat or reality of civil court action.

4.7 On May 7th to 8th 1980 another incendiary device went off at Fairwater Conservative Club, Cardiff, causing some scorching to a window sill. On July 17th/18th there were two more incendiary devices, the last in the series of six similar devices. One exploded on the window sill of the home of Nicholas Edwards MP, Secretary of State for Wales, near Abergavenny, and one at the County Conservative Club Cardiff, which did not ignite. A message was sent to the *South Wales Echo* saying 'MAC is alive and burning'.

4.8 On December 10th 1981 the Prime Minister visited Cardiff; a protest demonstration was organised by a number of labour movement organisations.

4.9 On February 2nd 1981 an incendiary device was left, but did not explode, at Pen Top Cottage, Capel Garmon, Gwynedd. This was the only incident involving a holiday home which was included in the conspiracy trial, though forensic experts doubted whether there was any proven link between this and the other devices.

4.10 On May 30th 1981 there was a demonstration at Merthyr Tydfil, Mid Glamorgan, to commemorate the 150th Anniversary of the uprising which led to the execution of Dic Penderyn. There were several arrests when the bar of a public house, where a social evening was being held, was closed unexpectedly early.

4.11 On October 26th 1981 an explosive device was left at the Army Careers Office, Pontypridd. Letters were sent to the media stating that 'WAWR has started its campaign' (WAWR stood for the Workers Army of the Welsh Republic, and is also the Welsh word for 'dawn'). Various people, including Robert Griffiths, were detained and their houses searched, but no charges were brought.

4.12 On October 28th an explosive device was planted at the headquarters of the British Steel Corporation, Gabalfa, Cardiff.

4.13 In November 1981 there was a demonstration outside the Severn Trent Water Authority, Birmingham, about the use of Welsh water. On the night of January 1st/2nd 1982 a bomb exploded at the same offices, causing £3,000 damage. Another bomb exploded outside the offices of the National Coal Board in Bouverie Street, London. A third bomb was diffused at the offices of IDC Limited, Stratford on Avon, whose consultant was Denis Thatcher. IDC Limited had come to prominence in September 1981 when Mr Thatcher had written to Nicholas Edwards, on its behalf, about a planning appeal, on 10 Downing Street notepaper. WAWR claimed responsibility for these explosions.

4.14 On March 7th 1982 there was an explosion at the Welsh Office Agriculture Department, Gabalfa, Cardiff; a 'manifesto' from WAWR was sent to the BBC Wales. This was the last of the incidents which were included in the conspiracy trial.

4.15 Between April 29th 1982 and July 3rd 1982 the eight people who were to be committed to stand trial in the conspiracy trial were arrested and charged. Their names and dates of arrest were as follows:

Adrian Stone: April 29th

Nicholas Hodges and Gareth Westacott: May 6th

David Burns: May 11th

Jennifer Smith: May 12th

Dafydd Ladd: June 7th

Brian Rees: June 22nd

Robert Griffiths: July 3rd

A number of other people were detained or arrested, and in some cases charged, in and around this period.

4.16 Many of those charged spent long periods in custody before eventually being granted bail. In particular, of those who were acquitted at the trial, Nicholas Hodges spent 9½ months in custody, David Burns 9 months, Adrian Stone 6 months and Jennifer Smith 1 month.

4.17 From 13th September to November 1982 the conspiracy trial was held at Cardiff Crown Court. Gareth Westacott failed to answer to bail. The charges against Jennifer Smith were dropped at an early stage. Dafydd Ladd pleaded guilty to possession of explosive substances. This left five defendants who pleaded not guilty and were tried before the jury. Of these Adrian Stone, Nicholas Hodges, David Burns, and Robert Griffiths were acquitted on all charges. Brian Rees was acquitted on the conspiracy charge and convicted of possession of explosive substances.

CHAPTER 5

THE POLITICAL POLICE

Special Branch and MI5

5.1 Special Branch was formed in 1883 as the Irish Special Branch with the responsibility to combat Fenian Bombings in London. 'Irish' was dropped from its title in 1885 but as Sir John Moylan said 'Once the Special Branch had been established there was no lack of work for it'. It has gone from strength to strength in size, power, resources and self-regulation. In May 1982 Mrs Thatcher in a White Paper on a security commission report stated *The internal threat has altered considerably. It has become more varied and viewed as a whole has grown more serious ... The fall in Communist Party of Great Britain membership has been accompanied by the proliferation of new subversive groups of the extreme left and the extreme right (mainly the former) whose aim is to overthrow democratic parliamentary government in this country by violent or other unconstitutional means not shrinking in the case of the most extreme groups from terrorism to achieve their aims. Membership of individual groups is small but for the most part active and conspiratorial. We shall see that the reality of police practice goes much further than this remit, which in itself is an authority for widespread Special Branch activity.*

5.2 At the heart of the security service is MI5. Precious little is known about it. Ian Brownlie, a leading legal academic, has pointed out that *MI5 is neither established by statute nor is it recognised by common law. It has no defined status. There is no mention of its existence in the Official Secrets Acts and it has never been the subject of a full debate in Parliament.* It is based in Curzon Street House, Mayfair, with a staff of some 2,000. It organises the tapping of phones and the opening of mail, the infiltration of political groups and the procurement of informers. It has a section whose main purpose is to break into and enter private homes and offices, it has gained access to confidential personal information held in supposedly private government files.

5.3 MI5 is split into 6 branches. 'A' branch is responsible for field work which includes bugging, photography, tapping and surveillance. 'B' is the personnel department which covers recruitment and vetting. 'C' deals with the safety of official documents and buildings and leads 'leak' enquiries. It has a special role in counter-terrorism and sabotage. 'K' branch monitors the work of Russian intelligence services in the UK. It uses Special Branch officers to follow Soviet targets. 'S' branch runs a variety of back-up services including control of the Joint Computer Bureau which is linked to MI6, the Secret Intelligence Service. It also runs MI5's own intelligence registry where files on 500,000 people are held. Finally, there is 'F' branch. From the point of view of domestic political surveillance this is the most important section. 'F' branch is subdivided into the following units. F1 investigates the Communist Party; F2 investigates Trade Unions; F3 investigates terrorism; F5 investigates Irish terrorism; F7 looks at other left wing groups as well as right wing extremists, MPs, teachers, lawyers, and journalists. Two of its sections are hived off to a separate sub-branch known as FX which is responsible for long term infiltration; F4 puts agents into political parties and organisations; F6 runs them in trade unions and at all levels.

5.4 MI5 and Special Branch are linked at the top through the Home Office and in the provinces by a network of nine regions in which MI5 representatives direct the Special Branches towards new priorities and handle particularly sensitive cases. These regions are organised according to army command areas. The Welsh base and representative are unknown. However, in Wales MI5 has an intelligence officer and a police liaison officer. Their job is to influence the local Chief Constable and local Special Branch officers. However, MI5 does deal directly with the local Special Branch officers who attend seminars and training sessions to bring them up to date on targets and techniques. New MI5 technical aids are passed on to local officers. On specific investigations MI5 will bring in Special Branch to make local enquiries or to carry out a time-

consuming surveillance, to open a file for them or help them to acquire information. Thus, in the regions the arms and the legs of MI5 are provided by Special Branch officers.

5.5 Special Branch officers are recruited from the ranks of the police force, often after the completion of their probationary period. Shorthand or a foreign language are normally required. In Wales there are Welsh speaking officers. Each of the 52 local police forces in the UK has its own local Special Branch, although David East, Chief Constable of South Wales, stated in correspondence with the enquiry on 26 March 1984, that *The functions of the Special Branch and their accountability are laid down nationally and followed meticulously by this Police Force*. The force has undergone a rapid increase. In the late 1960s there were some 300 officers in London and less than 50 others, concentrated in large airports and docks around the country. Now there are estimated to be more than 400 in London, a further 850 in the rest of England and Wales, 100 in Scotland and some 400 in Northern Ireland, bringing the total complement to approximately 1,800 officers.

5.6 In Wales the only source of public information on Special Branch are the Chief Constables' annual reports. The four reports give either little or no information on their activities but they do indicate that North Wales officers are present at the port at Holyhead; in Dyfed Powys they are present at Fishguard and in South Wales they are present at Rhoose airport, Cardiff. In South Wales the Special Branch is located at the new police station in Rhymney, Cardiff. The number of officers in Wales is unknown.

5.7 The job of the Special Branch in most respects has not changed since the early part of this century. Its overall role is to protect the security of the state and to aid the police in maintaining public order. Its main responsibilities are: watching at ports and airports for undesirable entrants and noting people's movements; carrying out surveillance of and gathering information on political and trade union activity;

espionage, carrying out surveillance of foreign embassies and individuals; assisting MI5 by making arrests and appearing in court; helping MI5 and ministry officials to carry out positive vetting of prospective or existing employees of government departments, and those in firms engaged on defence contract work; maintaining the local register of resident aliens, handling applications for naturalisation, and enforcing deportation orders; dealing with offences under the Official Secrets Acts; investigating offences in relation to the conduct of elections (a job given since 1973); to give armed protection to public figures thought to be at risk; the Met Special Branch has national responsibilities for Irish affairs.

5.8 Notional responsibility for Special Branch rests with the local Chief Constable. Local police authority members who have tried to discover information about them have generally been rebuffed. Some Chief Constables even find they cannot discover what their branch officers are doing. *They only tell me what I need to know and that's not much* said one Chief Constable. The former Prime Minister, Sir Harold Wilson, stated after his resignation in 1976 that he had not been aware of *what was happening, fully, in Security*. Successive governments have refused to give details of the work of the Special Branch on the grounds that it would not be 'in the public interest' as they were 'security matters'. Thus, the present level of information and public accountability is unacceptably low.

Subversion

5.9 The widening of the term 'subversive' has gone along with the growth and activity of Special Branch. Historically they watched terrorists—mainly anarchists and the Irish—communists and other high profile political groups. Today the net is very much wider. In 1963 Lord Denning spelt out what was accepted at that time as the official definition of subversives, and therefore possible subjects for surveillance. They were people who *would contemplate the overthrow of government by unlawful means*. This definition was expanded by Lord Harris, then Minister of State at the Home Office, in

1975, and confirmed by the Home Secretary, Merlyn Rees, in 1978: *Activities which threaten the safety or wellbeing of the State, and are intended to undermine or overthrow parliamentary democracy by political, industrial or violent means.* In response to critical comment Merlyn Rees added that *The Special Branch collects information on those who I think cause problems for the state.*

5.10 The most embracing definition of 'subversion' comes from Harold Salisbury, former Chief Constable of York, North East Yorkshire, and notional head of Special Branch in that region. In 1981 he defined a subversive as *any one who shows affinity towards communism, that's common sense, the IRA, the PLO, and I would say anyone who's decrying marriage, family life, trying to break that up, pushing drugs, homosexuality, indiscipline in schools, weak penalties for anti-social crimes ... a whole gamut of things like that that could be pecking away at the foundations of our society and weakening it.*

5.11 The implementation of such a broad-ranging definition leaves considerable discretion in the hands of local officers. The result is that the Special Branch have become scavengers for information on anyone and anything on the 'broad left'. This was confirmed by John Alderson, former Chief Constable of Devon and Cornwall, in 1982: *I've found, by making checks on the activities of my officers, that there is this innate tendency to want to record almost anything, however remotely connected it may be with activity which might in the loosest sense be regarded as subversive. This word 'subversive' needs to be defined ... Some people would regard subversion as anything which is designed to change society.* Early in 1982 Mr Alderson ordered that the local Special Branch files be weeded out. Over the previous 20 years the 30 strong Special Branch had amassed several hundred files. Asked how many were necessary for police purposes a senior officer commented 'I would guess about 20'. Entries on the files included 'X had a meal with Wedgwood Benn'.

5.12 In April 1984 a senior provincial policeman who had run Special Branch for several years in his force described succinctly his own definition of 'subversion'. *I'm an old fashioned nineteenth century moralist. I believe certain rules are immutable and cannot be touched. My job is to protect them.*

5.13 Thus the classic targets for Special Branch, the Communist Party, Irish terrorists and Fascist groups, remain but have been expanded. For example, they now include subscribers to the *Morning Star* and financial donors to the Communist Party of Great Britain. Other known examples are trade unions, CND, Hunt Saboteurs, Anti-Apartheid Movement, the Woodcraft Folk, an entire class who were studying Marxism and Literature at Gwent College of Further Education, Plaid Cymru, Cofiw and the Welsh Socialist Republican Movement. This is but a fraction of those who are deemed 'subversive'.

5.14 A rare glimpse of the way in which Special Branch implement their definition was seen in 1974 when the Metropolitan Police Special Branch 'General Orders' mysteriously came to light. Under section 49 'Public and other events', the orders make clear that the local police have to inform the Special Branch of *all* known political and industrial meetings and demonstrations; shorthand writers for major meetings are provided by Special Branch; 'Reports after meetings' asks for notes on violent or inflammatory speeches, and immediate notification by teleprinters where 'disorder of any kind or arrests occur'; whenever people are arrested in connection with political activities 'enquiry is always to be made of Special Branch to ascertain whether anything is known about the accused *before the case* is dealt with at Court'; the result of all political court cases must be notified to the Special Branch; where the Special Branch does not attend a meeting or march and no disorder occurs, 'the Special Branch is to be informed in all cases'.

'Subversives' and computers

5.15 500,000 persons have files on them in MI5's headquarters in London. The information contains photographs and typed records of their political beliefs and activities, friends, families, jobs and homes, allegations and suspicions about them and where applicable their criminal records. An estimated 2 million people are filed on the Metropolitan Police C Department computer while Special Branch, Fraud Squad and other specialist police units hold similar records on their targets. In Wales local Special Branches hold their own files on local targets. Special Branch officers have access to other police computers such as the Police National Computer which has 800 terminals in Wales and England and holds the names and addresses of all 30.5 million car owners in Britain, wanted people and fingerprints, cars of interest to the police. Some of these are classified as being of particular interest to Special Branch, so that if an officer enquires about them a bell rings in Special Branch headquarters to alert them to a find. Criminal intelligence computers store suspicious and unproven allegations often picked up by 'chats' between the local community officer and members of the public. These officers routinely report to the police collator and the information is pieced together and circulated around local police stations. Local Special Branch officers who have targetted an individual or group have access to the collator's files to gather this sort of 'soft' information which is not necessarily accurate.

5.16 South Wales constabulary installed a new computer, IRIS, in 1983 which was described as 'the most sophisticated and advanced in the country'. IRIS, costing £1.5 million, is a Dual Honeywell Level 6 computer linked to the Police National Computer. Phase 2 of this system is being prepared and will offer 'free text retrieval'. This is a method of storing information without needing to predefine strictly its contents, relying on a wide range of key words to reproduce the information. Such words might be 'occupation', 'nationality',

'trade unionist', 'Plaid Cymru'. This is particularly useful for intelligence gathering. It is estimated that the average use of the Police National Computer by Special Branch is around three times that of other officers. In 1980 North Wales police accessed the PNC 279,064 times of which 34,153 were carried out by criminal intelligence and 14,634 by Special Branch. In 1979 there were 22 Special Branch officers in North Wales: an average of 670 calls per officer per year in Special Branch, or put another way 2 calls per officer for every day of the year.

5.17 In relation to Special Branch and MI5 the Data Protection Bill, which is due to become law this summer, provides *no* protection for personal information. There is total exemption for the state security service systems. These bodies do not have to register, say where they obtained their information, nor to whom information has been given. There is no requirement that these systems keep any normal data protection procedures, such as special checks on the accuracy of the information, or keep note from where information is received. Special Branch records remain inviolate from public scrutiny, checking for accuracy, and accountability.

CHAPTER 6

WATCHING WALES

The State of the Law

6.1 The power of the police and intelligence services to gather and record a mass of information about the personal lives and political activities of people is virtually unregulated by law. Although the European Convention on Human Rights, to which the UK is a signatory, recognises under Article 8 that 'everyone has the right to respect for his private and family life, his home and his correspondence' the law of Wales and England does not.

6.2 It is an offence to interfere with the telephone unless authorised to do so by the Home Secretary. In 1937 the Home Secretary and the Post Master General decided that a telephone could only be tapped after a warrant had been obtained. A warrant is not supposed to be issued to MI5, according to a 1980 White Paper, unless there is 'a major subversive, terrorist or espionage activity that is likely to injure the national interest.' For a Special Branch warrant there must be 'a really serious offence', a term which used to mean 'punishable with at least three years in prison' but which now includes 'an offence of lesser gravity in which either a large number of people is involved or there is good reason to anticipate the use of violence'. It is also an offence to interfere with mail unless a warrant has been issued.

6.3 The present rules are full of loopholes. The decision to issue a warrant is not necessarily made by the Home Secretary; the warrant can cover an entire party or organisation by getting a warrant for one particularly militant member; all members of a party or organisation can be tapped by getting a warrant against the headquarters; a listening device, or bug, requires no warrant; the rules do not cover military intelligence

particularly in Northern Ireland, nor the satellites used by GCHQ, nor USA intelligence based in the UK. In 1979 in the Malone case the judge in deciding that there is no right to privacy in English law stated in regard to telephone tapping: 'this is not a subject on which it is possible to feel any pride in English law. I ... find it impossible to see how English law could be said to satisfy the requirements of the European Convention.' Malone's case was taken to the European Commission on Human Rights and the argument regarding breach of privacy through phone tapping was accepted.

Telephone Tapping

6.4 One of our witnesses, Mrs Morgan, had the experience of hearing the playback of her own telephone conversation. She had had a conversation with her daughter, and her grandson aged 2½ had come on the line. She then phoned her other daughter but instead of getting a reply, she heard voices. She continued:

It was the same chat Angharad and I had been having a few moments earlier. I understood everything that was going on. I recognised them as things we had said ourselves, but there was proof of it later on because Owain came on again with the same usual message to me. That had shaken me very much and I felt very angry that a voice of a 2½ year old child had been recorded somewhere by someone.

6.5 Dafydd Wigley MP, wishing to discover whether tapping had been taking place, acquired a device which lit up when there was an infringement with the voltage on the line. He noticed a very interesting pattern over a period of time:

You would get a pattern of correlation, and I remember one particular instance when a fairly important person was speaking to me over the telephone and there was a click on the phone about 4 seconds after the conversation had started and

he said 'Ah they are bugging us again', and the second the click had come on his end, the light had come on on mine. He was an absolutely responsible person in a senior post in the community.

6.6 Many of our witnesses had heard clicks and other noises which convinced them that tapping was going on. Some spoke of specific happenings which could only be explained by the tapping of phones. One witness made a 'last minute arrangement' with Robert Griffiths, who was in the house of a third person, to get a lift; Robert Griffiths was then arrested driving somebody else's car on the way to the witness's house, and the route could only have been known to the police from a telephone tap. Another witness arranged with a friend by telephone to have a family outing at Bristol zoo and to meet by the monkey house; when he reached the rendezvous, there were two men taking photographs of their group as they walked around the zoo. A third witness tried to test out the ability of the police to pick up and act on telephone information:

Just before going off to rallies, I made last minute arrangements with people over my phone to say that I would meet them at a pub some five or six hundred yards away and there were always policemen there.

6.7 Gerald Howells, campaigns organiser of Plaid Cymru, was clear in his evidence:

I have no doubt in my mind at all that I was subject to phone taps at my office and my home and that indeed I was subject to surveillance. There were two incidents that possibly confirm my suspicions at the time, and needless to say the clicks on one's telephone were absolutely numerous. Both at the office and at home.

Gerald Howells went on to describe two incidents when he made appointments by telephone, and where the meeting was attended by watching police officers.

6.8 Allegations of phone tapping were made to us in April by South Wales members of the National Union of Mineworkers. In the course of the organisation of their strike strategy members became convinced that the police were aware of their plans. For example, Clayton Jones, a bus owner in Pontypridd, hired one of his coaches to take miners into Derbyshire for picket duty. The hiring contract and details were arranged over the telephone. Shortly thereafter Mr Jones was contacted by Derbyshire police regarding his arrangements with the miners of South Wales. Mr East, Chief Constable of South Wales, denied that phone tapping had taken place and commented 'Perhaps the Derbyshire police have got a mole in the NUM.' Ray Powell, MP for Ogmore, has claimed that he has 6 illustrations of phone tapping during the miner's strike. The NUM remain convinced that the only possible way in which the police could have been aware of their proposed movements and actions could be through the use of phone tapping. Ron Davies, MP for Caerphilly, stated that there have been 'a lot of strange incidents with trade unionists and activists in South Wales over the years and there is widespread suspicion that illicit telephone tapping does go on.' Mr David East responded by dismissing these claims as 'nonsense' and stated that a 'deliberate attempt is being made to blacken the name of the police'. This position was reinforced by Mr Douglas Hurd, MP, Home Office Minister, who, on a visit to Cardiff, decried the 'Bogus civil liberties campaign of criticism against the police.'

Bugging

6.9 Akin to telephone tapping is the planting of microphones. The story of the Talysarn telephone kiosk in February 1982 which was well reported at the time was told to us by Dafydd Wigley MP, whose constituents had been involved. They had seen two strangers fixing something to the public kiosk and had found a small radio transmitter. They took it away to report it to the police. Dafydd Wigley continued:

In the process of walking the 50 yards from the telephone kiosk to the house, a car suddenly screeched around the corner,

mounted the pavement, almost hit them, pinned them against the wall, and two men came out, clearly having picked up the conversation over this walkie talkie. They said that they were telephone engineers and that that was theirs and took it off them and drove off.

The car number was noted and a complaint made. But it was said by the police that the ownership of the car in question could not be revealed. Although originally denied, eventually it was admitted that this had been a police operation, and that 'a person who might have been of interest to them in their investigation (without specifying which investigation) might have been making telephone calls from that kiosk.'

6.10 Other witnesses spoke of the use of sound recording equipment to pick up conversations at demonstrations. Many observed long-range microphones, equipped with a big parabolic dish and direction indicator, set up at the Pearl Assurance Building in Cardiff at the time of the demonstration against the Prime Minister in 1981. Tim Richards had a particular experience at an anti-army recruitment demonstration:

There was a Special Branch Officer there with a briefcase which he seemed to be pointing. We were not quite sure whether he was going to shoot with it or something; but then we realised there was a tape recorder and a microphone in there, and when the speaker at the demonstration pointed this out ... he very quickly disappeared. He was tailed and he was tailed back in fact to Caerphilly Police Station. So we tailed them as well as them tailing us!

6.11 As we listened to this succession of episodes of tapping and bugging, the pattern began to emerge of who was being monitored in this way: not criminals, nor people suspected of crime, so far as we could judge, but *legitimate political activists*. Dafydd Wigley and Gerald Howells occupy prominent positions in Plaid Cymru. Tim Richards was Chairman of the Welsh

Socialist Republican Movement. Another witness was sure that he had only been the subject of phone tapping because he had visited one of the defendants in custody in the conspiracy trial (which had caused him to be detained for three hours because 'obviously you are implicated'). This pattern of 'targetting' political activists recurred throughout the enquiry.

Intereference with Mail

6.12 Witnesses were less certain whether mail had been interfered with. Robert Griffiths told us that he had been told by a Post Office worker that:

A District Officer had been systematically removing the mail that had been sorted for me and had taken the mail to a small office where another officer scrutinised my mail. Exactly what he did with the mail I don't know.

Other witnesses had regularly received late mail, and David Burns alleged that he had discovered that the police had a piece of information about him which could only have been gleaned through reading a particular letter. However because of the uncertainty on this issue it is impossible for us to make any clear findings.

Photographing of Demonstrations

6.13 There is however overwhelming evidence that the police have regularly been taking photographs of marchers and demonstrators for the purpose of discovering their identity. Michael Peterson had an interesting experience at a street meeting on Ireland in September 1979, in Cardiff, where he was present with a camera. A plain clothes officer asked him to photograph certain individuals in the crowd:

He said that they were subversives and they had been watching them for some time, and he'd appreciate my assistance because they didn't have a photographer with them.

6.14 Adrian Stone and other witnesses noticed police photographers at a number of demonstrations which they attended:

- At a march at Bedwas in 1979, where a factory was being closed down, plain clothes officers were taking both movie camera pictures of the march and still photographs of participants.

- At a march to commemorate Bloody Sunday in 1980, a camera was observed in an empty shop filming the whole procession.

- At a WSRM demonstration against second homes in Llangrannog, people on the hillside facing the village square were using a telephoto lens to take photographs of members of the demonstration.

- At the demonstration against the Prime Minister there were men with cameras on top of the roof of City Hall, and video cameras outside the building.

- At Llanelli in 1981, at a demonstration at the Duport Steelworks, there were officers taking photographs of speakers and participants.

Adrian Stone was asked how sure he was that these were police photographers and not press. He replied:

I don't know about the vagaries of the press but certainly the press to my knowledge do not take photographs from the inside of a car with the windows closed, and then drive off when they are approached.

6.15 At the demonstration in Birmingham at the premises of the Severn Trent Water Authority, photographers were seen on the roof opposite the building, and in a van nearby. Some weeks later after the explosion at the Severn Trent Building,

Gerald Howells was asked who took part in the demonstration, and was shown the photographs. He said:

Some of the photographs that were contained in the folder were of a very high quality. They were blown up to a very large size ... the photographs and blow-ups were of active members of my Party ... boxes were placed around individuals to identify them.

6.16 The Chief Constable, in his letter to us of March 26th, claimed that it was not the usual practice to take photographs at demonstrations. But the police were justified in 'obtaining photographic evidence', when there was 'good reason to anticipate a breach of the peace or the commission of other offences.' He concluded that 'of course many people, including the media, take photographs on such occasions.' (see para. 2.7 above)

6.17 It would seem that we are being asked to accept that at any demonstration at which the police are obtaining photographic evidence, there is good reason to anticipate a breach of the peace or the commission of offences. This is certainly not borne out by the evidence which we have been given. The practice of photographing demonstrations suggests a desire by the police to gather and keep information on political activists, rather than concern for the public peace. The use made of such 'evidence' was illustrated by Ros Beck, a CND member who took part in a demonstration outside the Royal Ordnance Factory in Llanishen. Cameras were seen there, as they had been on previous protests at the factory. Although Ros Beck had no police record, detectives were able to visit her home within three hours of the demonstration in order to question her. She told us:

I said to him, 'how did you get my name and address from a piece of Ministry of Defence film and be able to contact me within three hours?', and he said 'Pass — I don't know'. That is actually the point that has got me worried, how they got my name and address from a piece of film in three hours.

Surveillance and Infiltration

6.18 This is another shadowy area where people can rarely be sure whether or not police agents are at work. We had evidence from the period of the Investiture in 1969 from Phil Williams, Vice President of Plaid Cymru. A written directive had been leaked to him saying that the activities of 'the Welsh Nationalist Party', as well as the Free Wales Army and the Welsh Language Society, were being closely watched. He himself was frequently followed by police cars. He detected two people who he was convinced were *agents provocateurs*, who were seeking to provoke violence where it would not have occurred.

6.19 Robert Griffiths was the object of surveillance which was so conspicuous that he concluded that its only object was to embarrass and intimidate him:

It was the same story all weekend, I was followed either on foot or one would walk behind me and the car would cruise just behind and so on. Everybody in the area around us knew that this was happening. All the neighbours were talking about it. Quite a few were rather angry or very shocked that this kind of thing could happen. I invited people round to photograph them; a number of people took photographs of the car and the officers.

6.20 Many witnesses spoke of the presence of plain-clothes officers attending meetings and demonstrations in the guise of members of the public. One member of Special Branch was recognised at a public meeting held at University College, Cardiff, immediately after the end of the conspiracy trial, where some of the ex-defendants were speaking. David Owen, Chief Constable of North Wales, has admitted that he authorised the deployment of plain-clothes officers within the picket lines during a NUM picket at the Point of Ayr Colliery, North Wales, in April 1984.

6.21 Gerald Howells gave us a graphic description of an act of provocation during a demonstration:

I witnessed a gentleman infiltrating a demonstration, walking up to a leading member of my Party, and verbally abusing him in what I thought was a manner which was obviously to try and get him aggressive, or indeed possibly involved in a fracas which would get him arrested. Indeed, when it backfired and other people in the crowd heard the remarks and started crowding him, a police wedge was driven into the crowd to remove the person concerned.

Question: is that how you conclude he was a police officer?

Gerald Howells: let's say that anybody of any intelligence does not walk into a crowd of possibly 500 members of a Party and accuse him of being a parentless Welsh person.

6.22 There was another more serious allegation that a political function had been deliberately interfered with by the police. This concerned the 150th anniversary of the Merthyr uprising which was celebrated on 30th May 1981 by a demonstration and later a social gathering. The social gathering was unexpectedly brought to a close at 9.30 p.m., and in the ensuing disturbance as people were ejected, a number of arrests were made by a squad of special support unit officers with dogs who had previously been brought to the scene. It was said that two plain clothes officers had approached the landlord and told him to shut down the function at 9.30, even though a licence extension had been granted. While we cannot investigate this incident in full, it undoubtedly fuelled the belief amongst members of the WSRM who were involved, that their organisation was the target of police provocation.

6.23 We also heard from witnesses who had been approached by the police with proposals that they should become informers. Some were so frightened of telling us about these approaches that they gave evidence in private and asked us to disclose no details. It would be logical for the police to obtain intelligence from informers about organisations which they considered to be criminal. But this begs the question which runs right through our enquiry: who should decide, on the basis of what criteria, that an organisation is criminal?

Political Questioning

6.24 Sometimes the gathering of political intelligence is done quite openly. Dafydd Elis Thomas complained to the police in March 1980 on behalf of constituents who told him that:

Police were doing door-to-door investigations and were asking people not only about their membership of organisations but which way they had voted at the previous election.

When the police asked for the complainants' names, they were refused, because the people concerned had no faith in the police complaints procedure.

6.25 June Bacon, who described herself as 'your average middle-aged citizen somewhat in awe of police authority and not too sure of my rights', wrote in her capacity as Secretary of the local CND branch for permission to hold a march. A plain-clothes officer visited her, and after discussing the route of the march, he said he wanted to ask some personal questions: How old are you? How many children have you? Where do you work? Do you belong to a trade union? Do you belong to a political party? Are you an activist? This was June Bacon's reaction:

I was very perturbed by the interview, even intimidated, though I must hasten to add that the Inspector was courteous throughout. He did however intimate that he needed the information for a report he was making for Bridgend. He also stated that both me and my group would now be on file. I answered all his questions truthfully, if reluctantly, and it was only on reflection that I realised that the interview was an infringement of my rights.

6.26 The damage done by this kind of scrutiny of lawful and peaceful political activity was well described by Gareth Butler:

The main point to put across is that police surveillance of the

nature outlined has an effect on people, in that people going to legitimate protests then think that those protests are not legitimate, that they are not inside the law ... where the police actually ask people what they are doing etc., it brings into your mind a fear: 'I'm breaking the law, I shouldn't be doing this'. It's a barrier to effective protest, and it does in fact frighten off a lot of people from effective protest. Maybe this is why it is actually done.

6.27 Looking generally at the evidence which we have received about the gathering of information by the police about political activists, the net appears to be cast very wide. It appears not to be any link with a criminal offence which makes one a target for surveillance of this kind, but rather the advocacy of anti-establishment opinions. Many of those who are being watched are far removed from any support for violent action. In the case of the WSRM the surveillance became more intense, and developed into overt police action, as we shall see. What is striking about the intelligence gathering operations described above is that they were not limited to people who might be described as extremists. Rather, a whole section of mainstream Welsh public opinion feels itself to be watched, to an extent which is not known.

CHAPTER 7

THE INVESTIGATION OF OFFENCES

7.1 There has been extensive debate in recent years over the legal powers which the police should have in the investigation of criminal offences. The Royal Commission on Criminal Procedure attempted to strike a balance between the need for effective means of fighting crime, and the need to safeguard civil liberties. In 1982-3 and 1983-4, Police and Criminal Evidence Bills have been debated in Parliament, both Bills tilting the balance further in favour of the police than had the Royal Commission. As we report, the second Bill has yet to be passed. We will make references both to the law as it is, and to the law as it will be if the Bill is passed in its present form. More significantly, we have been able to judge what laws are needed by reference to the detailed evidence of actual police practice in the cases which we have heard about.

Arrest - the Law

7.2 It is important to state clearly what is the power of a police officer to arrest or detain someone. The public, including many of our witnesses, are generally uncertain of their rights, and the police take advantage of this. A police officer may only require someone to go to a police station against his or her will by means of an *arrest*. If a police officer, without arresting, asks a person to come to the police station, that person is entitled either to agree or to refuse. How is an arrest lawfully made? By indicating to the arrested person in clear words that he or she is under arrest, and by informing him or her, at the time of the arrest, of the reason for it.

7.3 In what circumstances can an arrest be made? The basic law on the power of the police to arrest without a warrant is:

Where a constable, with reasonable cause, suspects that an arrestable offence has been committed, he may arrest without warrant anyone whom he, with reasonable cause, suspects to be guilty of the offence.

Most serious offences are arrestable offences. The Police and Criminal Evidence Bill extends the range of offences for which an arrest can be made, but preserves the same test of 'reasonable cause'. A police officer has no power to arrest, or detain, or even stop someone in the street against their will, for the purpose of asking questions. The matter was put very clearly by a judge of the Court of Appeal in 1977:

It must be clearly understood that neither customs officers nor police officers have any right to detain somebody for the purposes of getting them to help with their inquiries. Police officers either arrest for an offence or they do not detain at all.

Arrest - The Evidence

7.4 The evidence before our enquiry indicates that officers of police forces in Wales have grossly abused and exceeded their lawful powers of arrest. Faced with the series of arson and explosive offences which were committed from the winter 1979/80 onwards, and having no direct leads to any suspect, the police arrested or detained numbers of people, on the basis that, because they were believed to sympathise with the motivation behind the offences, or to associate with those who sympathised with them, they might have some information to supply about the offenders. Dafydd Elis Thomas MP described this method of operation as 'trawling':

What I am concerned about is the relationship between the illegal action which takes place, which is criminal and clearly must be policed, must be investigated, and the apparent enthusiasm of the police to police political organisations rather than to try through their intelligence and through public co-operation to find the people who are responsible and bring

them to the process of law. I would argue that by trawling, and by such a mass approach to policing people who have political views, they are in the first place making their own work more difficult for lack of public co-operation. But they are also in an important sense intervening in politics.

7.5 By way of contrast it is worth mentioning an episode over which the police behaved properly — the BBC Nationwide interview. They arrested and questioned Robert Griffiths, who had appeared on the programme, and later David Burns who had been the silhouetted figure. They sent a report of their investigation to the Director of Public Prosecutions who advised no action. Though there was criticism of some of the questioning, neither witness disputed the right of the police to use their powers on that occasion. As Robert Griffiths said:

I think the police interest was quite legitimate. I have never complained that they should investigate that matter, and finding a connection with me, they should investigate me on that basis. That would be rather falsely indignant.

7.6 The clearest example of a 'trawling' operation came on March 30th 1980, Operation Fire. The WCCPL Survey showed that most people were arrested between 4.30 a.m. and 6.00 a.m. on the Palm Sunday. The number of police officers at the points of arrest varied between four and eleven — in the latter case to arrest a middle aged man and his wife at home. They were held in police stations for long periods — many of them for more than 24 hours, one for 81 hours. They were questioned about their political views, the people they knew, the organisations to which they belonged, some were threatened and put under severe emotional pressure. In no case reported by WCCPL does there appear to have been specific evidence put to an arrested person which might justify a reasonable suspicion of crime. The direct quotations in the WCCPL report are striking:

I was asked if I knew X and Y? Did I think it was they who were doing the burning? How did I feel about the first fire? Was I

pleased? Was it time for people like Wigley and Dafydd Elis Thomas to condemn more strongly? Isn't it getting like Ireland?

How would I describe myself politically? Did I agree with Tory party policies? Did I think it would be 'nice' to blow them up (the Tories)? How many anarchists did I know, and would I give them their names?

I was asked for names and addresses of anarchists or Welsh Nationalists.

They didn't ask me about my movements, but they were interested in the people I knew. I wasn't questioned much at all. My interviewer X was doing most of the talking, and its purpose was to frighten me.

I was threatened very offensively by a senior officer. He said I would be jailed for life and I would have 'the most unforgettable interrogation of your life'.

After my arrival at X police station I was told from outside my cell that these men are hardened terrorists and would be treated as such.

A senior officer said I had no rights and that to them I was guilty until proved innocent. (Held 52 hours)

Police refused to say where I was or even confirm that I was being kept in. (Held 38 hours)

I asked that my son-in-law be informed. He said 'there's no guarantee that the call will be made' — and it wasn't. (Held 12 hours)

I was told in X as soon as I arrived that I had no rights. That they had definite proof — that I would be held in a cell for the next 40 years.

I was asked to name people on photographs which they found in my flat. I was asked if I spoke Welsh/knew any Welsh speakers. They were especially interested in the organisations I belong to. I was asked a lot (repeatedly by different officers) about my politics/philosophy especially re. 'the State' i.e. how far would I go in opposing the State.

7.7 The counter productive effect of such an operation cannot be over-stressed. It achieved virtually no results in the form of hard evidence, but worse, it fostered a fear of giving information to the police. Dafydd Elis Thomas MP said:

Constituents tell me 'we will not provide information, because we are afraid that if we volunteer information then our husbands, wives, lovers, friends, contacts, employers even, will be trawled in, questioned, interrogated'.

Many witnesses told us that they had refused to give information to the police, even on a matter such as an alibi where it would have been in their interests to do so, because of their fear of exposing their friends to harassment. In the light of the evidence we have received, we found that fear to be justified.

7.8 In a number of instances, it seemed clear to us that witnesses had been arrested, not because of any suspicion that they were themselves involved in crime, but because of their political views or associations. Dafydd Burns, who was repeatedly arrested and questioned, was asked why he had been singled out:

The only possible reason I can think of why they pestered me is because I was a fairly well known Nationalist during the 60s. I was involved with the Free Wales Army trial where he was acquitted because the judge found there was no case to answer ... many of my close friends are well known Nationalist figures in one particular stream or another. This is the only possible explanation. I think it was made fairly clear during cross-

examination, when I was being questioned, with the police. They even told me — this was the cruellest bit of all — they even told me that they knew I didn't do it.

Similarly Paul Eynon, who was held for two days, said:

They told me full well, they told me 'we know you had nothing to do with all this' ... it was basically a matter of getting Robert Griffiths.

7.9 Dafydd Burns was constantly asked for the names of people who he thought could have done the bombings. Even after he was charged (the charges were later abandoned) he was being told:

'It's not too late, name these people, give us lists of names and you can walk out now.' Again, I refused. I was arrested for no other reason than that they believed I could do their work for them.

7.10 Many others suffered this pressure to name names. For example, Adrian Stone:

He started to ask me if I knew a variety of people ... he said that these people knew something about the bombing campaign ... He wanted me, with X backing him up with various inducements, to name these people as being involved in the campaign.

and Nicholas Hodges:

At the first stage all they said really was that I could help them with names, but ... they didn't want me to give them names, they gave me names and told me they wanted these people.

and Paul Eynon:

They said ... 'what we'll do is we'll try you a list, we'll show you a

list'. They brought me a list of names, which in fact was of members of the Republican Movement.

7.11 It is impossible for us to know exactly what police officers had in their minds when they made the various arrests which we heard about. If actions for false imprisonment are brought, the 'reasonable cause' which is alleged to justify their suspicion will have to be made known. But if there was any evidence associating people with specific incidents, one would have expected it to have been put to the arrested people during questioning for them to confirm or deny. This was hardly ever done. Instead, allegations were made in the broadest terms 'we know you are involved', or 'we know you can tell us who is involved'.

7.12 In the period between October 1981 and July 1982 a number of people were arrested on suspicion of being involved in the bombing campaign, including the eight defendants who were sent for trial. Predominantly they were members of the WSRM. It must be emphasised that the WSRM was in no sense a clandestine organisation. It campaigned very openly for its objectives. It published a newspaper, *Welsh Republic*, in which was printed the names and addresses of its officers and local activists. In November, 1981, it made a statement about violent action:

It is not the policy of our movement at any level to advocate or to participate in military acts such as arson or planting of firebombs. Instead we urge people to join or support our movement in order to further legitimate and legal political activities.

The statement added that in some cases the movement would understand and sympathise with the motives of those responsible. The material put out by the WSRM did not provide, in our view, any 'reasonable grounds' for suspecting that its members were guilty of criminal offences.

Road Checks

7.13 Apart from certain powers to deal with road traffic infringements, the police have no greater power to detain a vehicle than they do to detain a person. The Police and Criminal Evidence Bill proposes to give to the police powers to set up 'road checks', if they have:

reasonable grounds for suspecting that, having regard to a pattern of crime in that area, a serious arrestable offence is likely to be committed

and in various other circumstances. But at present that is not the law. Even so, the road check, in which the police wave down drivers and question them about their movements, has become commonplace in parts of Wales. Dafydd Elis Thomas had had:

Complaints from all kinds of people, company directors through to young unemployed people, about the way in which they are being picked up and questioned at these roadblocks, being stopped and being searched and all that stuff.

This is another area in which people do not know, and cannot enforce, their legal rights. The police are able to arrogate to themselves with impunity a power which the law has not given them.

Search - The Law

7.14 The law allows for the search of premises, either if a warrant has been obtained from a Magistrate, or if a person has been lawfully arrested on the premises. But the powers of the police to remove a person's property are strictly limited. They must have reasonable grounds for believing that a serious offence has been committed, and that the article removed is material evidence to prove its commission, and that the person in possession of the article either committed the crime or was

an accessory, or is being quite unreasonable in refusing to hand the article over. The law does *not* allow the police to remove large quantities of private property in order to sift through them and see if there is anything relevant.

Search - The Evidence

7.15 In practice those who were visited during Operation Fire, and those who were arrested during the 1981 to 1982 bombing investigation, found that vast quantities of their possessions were combed through, removed to the police station and examined. Of particular interest were political papers, letters and membership lists and address books. One of those arrested in Operation Fire told the WCCPL:

A large number of items were removed: all my business papers, many photographs, candles, petrol oil (for a chain saw), roll of masking tape, books, jungle knife, all my Cofiwyn literature ... shoes, boots, trousers etc. and passport.

Robert Griffiths went voluntarily to the police station in October 1981 in order to account for his movements on the night of the Pontypridd bombing. Even though he was not under arrest, the police:

removed every item of clothing from the house, as well as all sorts of household items, batteries, sticky tape, any odd bits of wire, drawing pins, the kind of things you would find in anyone's house. They took away 36 bags — those are the sort of black bin bags — 36 bags of material and virtually all of it was clothes plus some household items.

Mrs Hodges, who was on her own and very distressed when police officers came to search her house, described how:

they proceeded to put maps, letters, posters, books, a torn-up letter, papers etc. into brown paper bags.

7.16 In the circumstances it was not surprising that police officers found in a few circumstances one or two possessions which they claimed to be relevant to the bombing investigations. Nicholas Hodges was asked why he had a doodle drawing of the letters WAWR. Dafydd Burns, why he had wooden clothes pegs which were similar to those used in an explosive device. Adrian Stone was charged with possessing 'explosive substances' which included six batteries, a pencil torch, cotton wool, and insulating tape. At the trial, it became apparent that the articles in question were commonplace. The searches are another element in the 'trawling' operation. Rather than removing articles which have a clear evidential relevance (which the law permits), the police remove everything and then try to find something relevant (which the law does not permit).

7.17 It is important to record the sense of outrage which is experienced by those whose homes are invaded in this way. Mrs Burns described her return home, after the arrest of her son, of which she was unaware:

Immediately I entered the living room I saw the most terrible state of chaos and my first thought was that there had been a burglary. I went upstairs calling out to see if David or Tom, my husband, were about. When I looked into David's room I was horrified. His mattress was tipped onto the floor, and books and papers and clothes were everywhere. There was cigarette ash all over the divan base, and since none of us are smokers it was obviously the detectives who had left cigarette ash.

Detention - The Law

7.18 As the law now stands, it is the duty of the police, after arresting someone without a warrant to bring the arrested person before a Magistrate's Court as soon as practicable. This will normally mean the following day at the latest, unless the arrest is on a Saturday. (The Police and Criminal Evidence Bill proposes to extend this power of detention to four days,

provided that the authority of a magistrate is obtained initially after 36 hours.)

An arrested person who is being held in custody is entitled:

To have intimation of his arrest and of the place he is being held sent to one person reasonably named by him without delay or, where some delay is necessary in the interests of the investigation or the prevention of crime or the apprehension of offenders, with no more delay than is so necessary.

The Judges Rules provide for access to a solicitor in these terms:

Every person at any stage of the investigation should be able to communicate and consult privately with a solicitor. This is so even if he is in custody provided that in such a case no unreasonable delay or hindrance is caused to the processes of investigation or the the administration of justice.

7.19 In practice, all these rights are commonly, and were in the cases we examined, flouted. Several people were held for periods of 48 hours and more. Requests to see a solicitor were invariably refused, at least until the process of interrogation was over. Adrian Stone said:

I had asked if I could contact my solicitor and my parents to inform them that I was being taken to Bridgend. I was refused this. (The officer) also made it clear when I asked about my solicitor that he didn't want me to have a solicitor; that he didn't want any smart assed lawyer getting me out of this'.

7.20 Some of the most moving evidence came from relatives and friends who were left in total ignorance of the fate or whereabouts of arrested people. Mrs Burns described her husband's entry, shortly after she had returned:

He looked distraught ... the poor man had been all day trying to find where David was being held and nobody would put his

mind at rest. It was cruel. We were both thinking of David and frightened of what could be happening to him. We spent a terrible evening phoning all sorts of people.

7.21 Joe Hodges, in a written statement made before his death, described how he called from police station to police station trying to find his missing son. He reached Rhymney police station, where Nicholas Hodges in fact was. His statement continues:

Spoke to desk officer, said I was Mr Hodges, you have my son here. I need to see him and know why he is here. The officer looked quite blank, had nothing in his book but would make enquiries. I said I was now confused — would go to Llanishen — and then to the hospitals, even to the mortuary, in an attempt to find my boy.

He was then, finally, told that his son was there, but was not allowed to see him.

I asked why we, the parents, had been left in the harrowing experience of not knowing of my son's whereabouts and why he had not been allowed to contact us, why had not the police informed us ... the answer was 'there had not been time'.

7.22 Syd Morgan, a local councillor, described to us how he had searched for a constituent who had been arrested and who was not in the police station in which her family had been told she would be. Syd Morgan was told an outright lie — that his constituent was not at a particular police station, whereas in fact, by pure chance, he saw her through the window.

7.23 The object of these breaches of law can only be to bring about precisely what the law is designed to prevent — the physical and psychological isolation of the arrested person over a prolonged period, so that he or she may be induced to part with information or to confess. This indeed was exactly how it was put to Nicholas Hodges inside the police station: 'I

would just be spirited away, wouldn't be seen for many, many days, and God knows what would happen to me.'

Questioning - The Law

7.24 Police officers are allowed to put questions to a suspect in custody, provided that they administer a caution that the suspect is not obliged to say anything unless he or she wishes to do so. A police officer must not offer any inducements, or issue any threats, for the purpose of obtaining a statement; otherwise the statement will be ruled inadmissible by the court. There is no legal requirement for the suspect's replies to be taken down in writing, or otherwise recorded, except at the moment when the suspect is charged.

Questioning - The Evidence

7.25 In practice we were told by many witnesses of the intense pressures to which they were subjected, including the use of threats, abuse, and financial inducements, in order to persuade them either to confess or to implicate others. It must be recorded that the pressures applied by officers of the South Wales constabulary stopped short of physical violence although violence was threatened, and in the case of David Burns applied, by officers of the West Midlands police. However, the ordeal for many was real and terrifying, caused by isolation, the sense of being trapped, the fear of possible violence, the insulting and aggressive behaviour by officers.

7.26 Several witnesses spoke of virulent abuse against them and their friends. Thus, Nicholas Hodges:

I was repeatedly told that first of all X was a pervert, as I was told that about myself later. I was also asked about Y and was told that he was a pervert and everyone concerned with me and my friends were all perverts, and

X was a well known terrorist, and if I associated with him I must be a terrorist and also a pervert.

And Robert Griffiths:

Then there were all sorts of remarks about how various people, they named a number of people, and said 'we know they're homosexuals, and we know that most of the women members of the WSRM are lesbians'.

And Dafydd Burns:

They started naming people in the Nationalist movement, they started describing their sexual habits, they were saying that so-and-so is the father of so-and-so's son ... they were really splattering the names of people in the Nationalist movement.

7.27 Another tactic was the use of inducements and bribes in order to get people to implicate others. We heard that one man was asked if he had much money, and when he said no:

They said 'you know, we could help there, we could give you some money if you'll agree that Adrian Stone has shown you how to make a bomb'.

Dafydd Burns told us that:

It was put to me that they would give me a £100 a week, incidentally, I was unemployed at the time. £100 a week and a flat anywhere in Wales that I wanted to go.

Adrian Stone was told that 'you could walk out of here with money in your pocket and end up smelling of roses', if he named the guilty parties. Paul Eynon was told 'look, you know we can make deals.'

7.28 But the principal weapon used to try and obtain

confessions from those who were interrogated was the threat of violence, of prolonged incarceration, of the consequent distress to close relatives. Adrian Stone said that the threats came particularly from West Midlands officers:

He threatened to take me to Birmingham and said that his men knew how to deal with Welsh terrorists. He was abusive, he was threatening.

In David Burns' case the threats, again from West Midlands officers, were violent in the extreme, and backed up by a degree of actual violence:

It got more and more aggressive, X was making extremely detailed and lurid threats about what they'd do in Birmingham ... 'we can beat you to death if we want, you know what happens in Winson Green, you know what happened to the IRA bombers in 1974 ... we'll make you feel real pain and we don't leave any marks; we can do a fist right up your groin' (a different word he used as a matter of fact) 'a boot in the kidneys, you'll be screaming in pain but we won't leave any marks on you; we've had really hard men in our hands and they don't last two days, how long do you think you'll last?' I said 'I don't know how long I'll last' - I don't think I would have lasted very long as a matter of fact - but I said if you do get a confession out of me it won't be true, and Y said 'we don't care, we'll get a confession anyway.' I was really terrified by this, the way X was describing what he could do and the way Y was backing him up. Y actually kicked me in the ribs and hit me across the head and tried to kick my chair away from me. I was terrified, I thought 'well if they take me to Birmingham I am probably going to break and sign a confession' but all I could think was, 'well leave it until you have to, don't get bluffed into doing it.'

7.30 In the case of Nicholas Hodges this kind of pressure led to his actually signing a confession statement. He described to us how this came about:

I was kept up from my arrest at midday and questioned almost continuously, except for about two half hour breaks when I was put in the cell to wise up a bit, until seven the next morning, about nineteen hours, without food, without rest, without a drink of any description. I literally had to beg for a drink at the end.

It was just pure threats and political questions from then on into the night. Different teams of detectives came in their twos and threes in three or four hour shifts.

There was no actual violence on me in the whole time. There were certainly threats of it, large officers from Birmingham muscling up to me and saying 'we can easily thump you around' but nothing actually happened. The threats that came were against my family mostly, and also threats about being moved to Birmingham and/or London. The threats against my family were that they had seen my mother, and she was an incredibly nervous woman, and she was very worried about me of course, and they didn't think she'd last very long, she'd probably have a heart attack and die very soon. They knew about my brother being a student in university, and that he had a very promising career and a future, and a few words and ideas could block that for him. But the main threat that really worried me was against my father, who was a self-employed electrician, working on his own, a one man firm, and they threatened to arrest him, not charge him probably but bring him in, and the bad publicity could easily wreck his career and the clientele he had built up over the years, and well, the threat was that also they might even charge him.

Finally he 'cracked', and began to nod agreement to all the suggestions which were put to him, even though 'it was fairly obvious to me that they knew it wasn't true'. He explained the reasons why he gave in:

I just wanted to get out of there really - the offer of bail they kept making all the time. I didn't even, as I was signing the confession statements admitting all, I didn't even then think they were going to put me in prison or anything. I thought this is all going to be very nasty in the future, but if I can get out now I can sort it out, and it was an easy way out. At that time I had been up for fifteen odd hours or something, and I was totally shattered, and I didn't know where the hell I was, or what I was doing, and I just agreed. And after that all pressure went off.

What I thought was unfair was that I was not given a chance to defend myself, I had sort of no-one there with me on my side; they could come in fresh in their little teams ... I didn't have the chance of having a solicitor or anyone there with me to help me, and if I had I probably would never have got threatened in the first place, nothing like this would ever have happened.

I was totally in their power.

Implicating an MP

7.31 On the first morning of our enquiry a very serious allegation was made by Dafydd Elis Thomas MP that because of his activities in raising complaints against the police on behalf of his constituents, the police had sought to persuade those whom they were questioning to implicate him in some way in the bombing campaign. He said:

The uncharitable view is that here is a police service which is under stress, but which does not like to have complaints made about it by Members of Parliament, and who will look for an opportunity, six months before a general election is due to be called, to try and unseat, I put it as strongly as that, a democratically elected Member of Parliament, through smearing that person, by identifying or trying to identify him in the public mind with acts of

political violence which clearly would be politically damaging.

7.32 Dafydd Elis Thomas's name was indeed said to have been mentioned by police, according to the evidence of a number of witnesses. According to Dafydd Burns, it was never suggested that he was involved, but simply that he was 'a mouthy bugger who was causing trouble' but according to Adrian Stone, Dafydd Elis Thomas was said by police to be 'the person behind the bombing campaign.' Nicholas Hodges told us that police officers had called Mr Elis Thomas 'a red, an Irish lover, and a pain in the arse to us police'. He continued:

They asked me then again, 'If you make a statement against Dafydd Elis Thomas saying that he is the political brains of the bombers, we will make sure ...', the promise being that he would get bail or a suspended sentence.

7.33 We are satisfied that there was considerable abuse expressed about Dafydd Elis Thomas, and some attempt to obtain prejudicial information about him. Having heard Dafydd Elis Thomas, we are satisfied that in his dealings with the police, he was doing no more than his job as a public representative.

Fabrication of Evidence

7.34 Many of the allegations of threats, abuse, and inducements, which were made to us were also made at the conspiracy trial. In addition, large portions of the evidence given by police officers at the conspiracy trial were said to be totally fabricated, principally through the wholesale scripting of interviews containing damaging admissions, and in one case through the planting of evidence in a defendant's home. The judge at the trial, Mr Justice Farquharson, summed up the issues before the jury in these words:

The central decision you have to make is as to the honesty of the witnesses. The main contest is between the police

and the defendants ... If you believe the case put forward by the defence you really have to draw the conclusion that police officers from four different forces of all ranks conspired to produce false evidence.

In respect of all issues where there was a conflict between defendants and the police, the jury found in favour of the defendants. They were assisted by a number of pieces of evidence which could only be explained upon the basis that the police officers had been lying.

7.35 Adrian Stone told us that an officer said to him explicitly:

I think you're guilty, I know you're guilty, and if I have to fit you up, I will fit you up. I've done it to others in the past.

In his case he claimed, as did all four of the acquitted defendants, that notes of interviews, which were claimed at the trial to have been taken down contemporaneously, had in fact been written up, falsely, at a later stage. The topics which had come up had been noted down, but the actual questions and answers, as given in evidence by the police, bore no relation to the truth. It should be noted that in no case were these notes of interview signed by a defendant, nor of course was there any third party or recording machine present to ensure an accurate record. In the case of David Burns and of Robert Griffiths, these notes, and the admissions which they were alleged to record, constituted the only evidence connecting the accused to any crime. In the case of Nicholas Hodges, there was also his signed 'confession'.

7.36 In the case of Adrian Stone, the police also relied on traces of potassium chlorate which they said had been found in a goblet in his bedroom. The evidence about this at the trial was curious. The forensic analyst said that he told the police, at about midday on April 30th when his analysis was complete, that he had found potassium chlorate. But at 10.30 a.m. the same morning, the police claimed that they had questioned

Adrian Stone about 'chlorate' which had been found in his room. How could they have known? The relevance of the finding was that sodium chlorate (not potassium chlorate) had been used in some of the bombing devices. Adrian Stone's allegation, both at the trial and before us, was clear:

Previous to the police entry there had been no potassium chlorate, there had been no substances in my bedroom ... A police officer put that potassium chlorate there. There can be no doubt of that.

7.37 Robert Griffiths was the last to be arrested. According to many witnesses who were questioned by the police about him, he was the man whom the police were most anxious to implicate. He was the National Secretary of the WSRM, and had been particularly active in protesting through speeches and writing about the previous arrests. He had been held for two days in October 1982 after the Pontypridd bomb incident, and released without charge. During June 1982 he received a number of anonymous threats over the telephone. On June 17th a voice had said:

You don't know me Mr Griffiths but I know you ... I know about your part in all this business ... Mr Griffiths I will get you, goodbye.

And then on June 24th; which Robert Griffiths recorded on tape:

About that call the other week ... Rees has taken them to a package, they're getting closer.

And finally on June 30th, a voice in Welsh:

John Jenkins is with the police, you're next.

Robert Griffiths told us that the fact that Brian Rees had taken the police to a hidden parcel containing detonators could only

have been known, at the time of the call, to police officers. He was arrested on July 2nd.

7.38 It was Robert Griffiths who gave us the most graphic account of an openly 'faked' interview:

When I was shown into a room with X, Y, and Z, they said that they were now going to interview me, and I immediately said, 'I've got nothing to say, I want to see my solicitor', and Y said, 'Well I'm going to put some questions and if you're not going to answer them I'm going to answer them for you.' So I repeated what I'd been saying all along, and then followed half an hour or three quarters of an hour of Y dictating questions, Z would then write them down, and Y had rough notes in front of him from which he was getting the questions, and so on. Z would write down the questions, and then after each question Y would come on and say, 'Griffiths is now replying ...' and he would dictate the reply, and Z would write that down as if I'd just said it.

In fact this 'interview' was not used in evidence, perhaps because Robert Griffiths, on the following morning, had managed to obtain a pencil and to record on scraps of newspaper a summary of what had happened.

7.39 In a number of respects the 'contemporaneous' notes, from which the evidence at the trial was drawn, were shown to be highly suspect. Once it was discovered that the typed up statement of the interview, which was said to have been typed from the 'contemporaneous' notes, contained a question and answer which was nowhere to be found in the 'contemporaneous' notes. The police could not explain this; the defence said that it proved that the 'contemporaneous' notes had been laboriously written up *after* the typed version was in existence, and a passage had been left out by mistake. Also the language of the replies said to have been made by the accused, as recorded in the 'verbatim' notes, contained unlikely sentences such as 'I admit that I impeded Dafydd Ladd's

apprehension', and 'I took two persons to Pontypridd', and 'I will admit my part in this to my solicitor'. The same expressions, and uses of words such as 'persons', occur in the 'verbatim' replies of different accused people.

7.40 As we have stated, it has not been our function to re-try the conspiracy trial. We have set out the allegations which were made before us, and we have no reason to disagree with the jury's verdict upon them. The fabrication of evidence is, regrettably, the logical consequence of the pattern of policing which has emerged from the evidence as a whole. Various crimes were committed, some connected with people in high places in political life (Nicholas Edwards, Denis Thatcher). The police were under pressure to get results. They had targetted a group of people whom they thought of as dangerous subversives. They became convinced that these people were in some way guilty, that they had either committed the crimes or had been associating with those who did. They carried out a massive operation, Operation Fire, with negative results. The bombings commenced and other police forces became involved. More people were arrested, searched, questioned, with negative results. A meeting of all the forces involved was held, we understand in January 1982, to review the failure of the investigation thus far. It would not be the first occasion on which such pressures, acting on officers with such attitudes of mind, had led to the fabrication of evidence to convict those who were 'known' to be guilty, but who were in fact proved ultimately to be innocent.

CHAPTER 8

THE JUDICIAL PROCESS

8.1 After being charged, the conspiracy trial defendants spent considerable amounts of time in prison on remand. Of those who were acquitted, Nicholas Hodges had spent nine and a half months in custody, David Burns nine months, Adrian Stone six months, and Jennifer Smith one month. Strenuous objections were made by the police to bail, and the magistrates upheld their objections. Both magistrates and police were criticised by witnesses. Mrs Hodges said:

We never missed the weekly remand hearings, and as the weeks went by, we lost faith in the magistrates' impartiality and integrity.

David Burns studied the Bail Act closely, and made a number of applications on his own behalf for bail. He said:

It was just impossible to make any inroads into the minds of these magistrates. As far as I am concerned, they were completely impervious to any arguments from the defence.

8.2 The police did their utmost to press their objections to bail. 'Reasons of national security' were mentioned. It was suggested originally that the defendants would interfere with the course of justice, because a person was still at large. But when that person was arrested it was then suggested that the defendants would fail to surrender to their bail, or would commit offences whilst on bail. As in earlier parts of the investigation, an unnecessary climate of fear and danger was created. Thomas Burns, father of David Burns, was shocked by the arrangements which were made when lay magistrates first sat to hear a bail application:

We had to come in facing a magistrates bench. As we walked in,

now we were being searched for the first time. I got the impression it was to impress the magistrates of the enormity of these charges. I thought, well that is strange, all this time with Sir Lincoln Hallinan (the Stipendiary Magistrate) we had been walking in off the streets, and sitting down waiting for the court to sit down. Suddenly this door is closed and we come in this way facing the magistrates bench and searched and the two lady magistrates would naturally be impressed by the security precautions.

8.3 David Burns has summed up well the effect upon an accused person of being remanded in custody:

The prosecution wanted to deny us bail for several reasons. One was to perpetuate the myth that we were dangerous people and could not be allowed out. Even at the end, when the jury were considering their verdicts, we were being ferried through Cardiff in police vans with lights flashing and sirens blaring. It also made it extremely difficult for us to prepare our case — we could only see our lawyers for limited periods. There were, of course, some 2,000 pages of evidence before the Committal and about 1,500 afterwards. Most insidious of all is the effect remand has on you personally. You're extremely frustrated and damaged mentally. It puts you at a severe disadvantage when you're going into a trial lasting ten weeks during which you're going to spend days in the witness box.

8.4 The reasons for the long delays in getting the case to trial were unclear. The prosecution spoke of needing time to gather the evidence — although if their case was an honest one, all the significant evidence, in the form of police interviews, would already have been in their hands. The one piece of new 'evidence' which the police obtained, but in the end did not use, was a remarkable statement by a prisoner named Bobby Parfitt, who was put in the same cell as some of the defendants during the period of remand in prison. Adrian Stone said this of him:

Bobby Parfitt is a police informant ... On a number of occasions he tried to engage both myself and David Burns in conversation about bombs ... He tried to pump me on a number of occasions for information about how to make bombs ... At no time did any of us make positive responses to him.

8.5 Even so, on the last day but one of the prosecution case at the trial, four statements said to have been made by Parfitt between December 1982 and February 1983 were handed to the defence. In them various of the accused are said to have made damaging remarks to Parfitt which confirmed the prosecution case. All the witnesses involved told us that these statements were a pack of lies. Since Parfitt was never called to give evidence, it is impossible to know how far these statements were made by him and how far by the police officers who were with Parfitt when he signed them. The defendants viewed this as another underhand and dishonest means of attempting to secure evidence against them.

8.6 It was not only the defendants who suffered. The effect upon their families was overwhelming. Julia Latham, sister of David Burns, spoke of 'the terrible strain which all the families were under'. Every possible effort was made to give support to the defendants in custody, and to petition every person in authority from the Queen and the Prime Minister downwards to redress the injustices which were occurring. Muriel Hodges movingly described the ordeal which she and her late husband, who had died suddenly soon after the end of the trial, had suffered:

Our home life took on a totally different meaning. We found ourselves watching the clock so as not to be late for our daily visit to the jail, and consequently Joe's work suffered a lot and the family's finances suffered accordingly. He tried to work early in the mornings until late in the evenings to catch up. We were on edge all the time.

Julia Latham said:

All other family and personal commitments had to be put aside whilst things like weekly attendance in court and daily visits to the prison took possession of our lives. We had to organise ourselves to try and raise money to print material which would let our story come to public notice, and we had to learn to go on marches and pickets to try to defend our relatives in prison. We had to come to terms with 'fair-weather friends' who were quick to fall back on the old 'no smoke without fire' theory. And believe me, a test like this will prove true friends.

8.7 Those who associated with the defendants became suspect themselves. People who came to court were asked by uniformed police what their interest in the case was. Alun Jones, who offered to be a surety for David Burns, found his movements being observed by people who were plainly police officers. Another witness was arrested after he had visited a defendant on remand in prison. He took a photograph of his wife outside the prison and was then held for three hours and accused of plotting the defendant's escape.

8.8 Joe Hodges, father of Nicholas Hodges, found that the police had been making enquiries about him behind his back. Muriel Hodges told us:

We heard later that the police had visited his two wholesalers, two builders whom he had worked for, visited his accountant and various clients ... We came to the conclusion that they were trying to discredit Joe.

8.9 Particular attention was given to those who might be alibi witnesses for the Defence. When Robert Griffiths, while being questioned by the police, gave the names of people with whom he had been the day before, those people were themselves arrested, searched, detained, asked about their politics, accused of being involved, all in an apparent attempt to

discredit the alibi which had been given. One alibi witness was arrested by four officers on suspicion of having committed the very offence — the Pontypridd bombing — for which he was to give an alibi statement. He was told to remove his clothes; asked about his movements and who could confirm *them*; put in a cell overnight; asked about his politics; and eventually released after a frightening 22 hours in police custody.

8.10 Others were spared being arrested, but still made to feel that they were suspects. Michael Peterson went to the police station to give a statement about Robert Griffiths' whereabouts on a particular evening. He was invited to have a cup of tea, and found that the cup had silver dust on the outside, which he assumes was in order to obtain his fingerprints illegally. He was asked if his car could be searched and what his views about the bombing campaign were. For a while it was unclear whether he would be allowed to go. He felt that he had become a suspect.

8.11 Mr Peterson also gave an alibi statement for Nicholas Hodges. He insisted on doing so in the presence of a solicitor. Even with the solicitor present, he said that:

They tried to get me to say things and to have included in the statement things that I didn't want to, concerning my political views.

On each occasion he had volunteered to present a written statement, or to write his own statement, but 'they wouldn't have it'.

8.12 Siân Edwards was also asked to give a statement about the movements of Robert Griffiths. Her house was visited by police, when she was not there, and a friend was questioned about her own political beliefs. When she herself was seen, she found that the whole purpose of the questioning seemed to be to cast doubt on her ability to remember an incident which had happened a year previously. She made an appointment

through a solicitor to make a full statement. She was asked who else could support her statement supporting Robert Griffiths' statement, and she said that there was a man whom she had seen that day:

And the whole thing began again; they wanted the name and address of this man, and I said I would have to contact him and ask his permission, and the whole discussion went as it had gone in other cases. I lost my temper rather because I felt the whole process was becoming endless, whatever I was saying, he would doubt, and then we would bring in more people, and more people, and be quite endless.

8.13 The most shocking treatment of a potential alibi witness concerned Thomas Burns, father of David Burns. He, an elderly man, had gone with his wife and his solicitor to the police station so that his wife could make an alibi statement. Thomas Burns was left waiting whilst his wife made a statement, and after one and a half hours he told the desk sergeant that he would go off for a drink across the road. He came back to find that his wife had gone, as had the solicitor. Two officers then came out and said 'Oh, we want to see you, could you help us with a couple of questions?' Thomas Burns continued:

I had previously offered myself and was turned out with an emphatic no. Here I was inveigled into this, I say inveigled, in retrospect. Like a lamb I went to them.

Thomas Burns, who is partially deaf, then found himself being pressed to say things which were inaccurate. He regarded it as 'a very poor attempt to break down an alibi'. He was there, without his solicitor, from 9.30 p.m. until nearly 12.00 midnight. When Thomas Burns objected to something in the statement, the officer said 'I'll say what goes in and I'll say what comes out'.

8.14 This treatment of potential alibi witnesses has considerable significance. The Defence are required to disclose

to the prosecution, in advance of the trial, the names and addresses of any witnesses who will be called to support an alibi. If the police then can improperly persuade the alibi witness to make a statement which is inaccurate, or prejudicial, the witness will be vulnerable to cross examination when giving evidence at the trial. Questions will be asked such as: did you make this statement? did you sign it? why did you say this? why have you changed your story? It will then be very difficult for the witness to explain that he or she did not intend to say the things which are in the statement.

The Jury

8.15 At the end of the long period of waiting there was a ten-week jury trial which resulted in the verdicts to which we have referred. It is necessary to stress the right to trial by jury, which proved to be the one effective means open to those who had been wrongly accused to vindicate, in the end, their innocence. Without it, it is almost certain that a number of innocent people would now be serving long terms of imprisonment as a result of the bombing investigation. In Northern Ireland the offences charged would have been 'scheduled offences' and triable only in the non-jury 'Diplock courts'.

Public Confidence

8.16 As such methods of investigation begin to effect more and more people, they cause increasing reactions of shock and distrust among those involved and their associates. One witness, a Councillor who was friendly with some of the people arrested, formed the view that 'the police had gone absolutely bonkers'. She said:

Because the police were using these extraordinarily repressive means, I thought, one couldn't trust them anymore, and certainly I thought Plaid Cymru activists and especially the youth, should be tipped off about what was happening in case they went through the same experience.

She began to feel quite guilty herself, and combed through her papers to see if there was anything the police might find suspicious. When she saw a strange car early in the morning, she became convinced that they had come for her and pushed her address book through a neighbour's letter box. Thus can law abiding and upright people become imbued with the atmosphere of fear and suspicion.

8.17 For others directly involved, their attitude to the police has been shattered. Muriel Hodges said to us:

I was always brought up and I brought my two boys up always to respect the police and if in any trouble to go to them ... but when I came up against this ... I thought, well, there is a different police force to what I had been told or led to believe or thought we had. I am not saying that of the ordinary policeman in the street. The ones we have come against have altered my mind.

Julia Latham expressed very clearly the bitter change of mind which she had experienced:

I had hoped to be able to tell my children with confidence that we lived in a just society where the individual could express himself without fear of reprisal. If I were to tell my children that now I would be deceiving them.

Freda Burns expressed her plea to Mrs Thatcher, in a letter written after the end of the trial:

Again and again, police officers are found to have fabricated evidence in an attempt to convict innocent people — I would not have believed it had it not happened within my own family, since I was taught to respect the police. I ask you, most earnestly, Prime Minister, to please think again before you give your approval to further police power.

CHAPTER 9

THE POLICING OF THE BLACK COMMUNITY

9.1 One Welsh community with a particular sense of grievance is the black community of Cardiff, perhaps the oldest black community in Britain. In the late nineteenth century Cardiff was the world's greatest coalport. The ease of finding work in a ship leaving a port with such a massive export trade attracted to Cardiff sailors from all parts of the British empire and by 1911 the proportion of the city's residents born outside the United Kingdom was second only to that of London. There was a further influx during the First World War and by 1919 there were, perhaps, 2,000 black seamen who considered Cardiff to be home. In that year the city experienced what is probably the most violent race riot ever to have occurred in Britain. The black population of Cardiff was concentrated around Loudoun Square in Butetown. While those living away from that area were subject to attack, the Loudoun Square residents organised their own defence and turned their district into a fortress.

9.2 The riots of 1919 have shaped the consciousness of Cardiff's black population. They only felt secure within their own community in Butetown, an area cut off from the rest of the city by marked physical boundaries. At the same time, white Cardiffians, while accepting that Butetown was a cosmopolitan district, assumed that it would be the only such district within the city. With the black community living in what was described in 1950 as 'the nearest thing to a ghetto we have in this free land', Cardiff's race relations were considered exemplary. Outside Butetown, the riots of 1919 were totally forgotten and in 1972 the Select Committee on Race Relations was informed by the South Wales Constabulary that 'there is no record of any serious disturbance involving the indigenous and immigrant population.'

9.3 By the 1970's the redevelopment of much of the dockland area had led to the removal of many of its inhabitants to other parts of Cardiff, exposing them to prejudice from which the dockland was relatively free, an experience which caused large numbers of them to return to Butetown. By the 1970's too, the rise of black consciousness and enhanced expectations of life caused resentment against the anodyne assumption that Cardiff had no racial problem. The demand for full equality by Cardiff's black community, which was by then of the third or fourth generation, created new tensions. In particular, it is perceived that the police seek to contain the community within Butetown and try to prevent, through harassment, free access by black Cardiffians to the city of Cardiff as a whole.

9.4 The most important point to emerge from the evidence was that black people felt themselves to be tolerated only if they remained as a docile population within Butetown. As Alan Legall put it:

I believe it is a police directive and always has been. We are allowed to stay in our own area where we are safe. 'You can play down there'. We are not allowed to go into town, it's not encouraged, you will be harassed, arrested or what have you.

He added that even those who had moved out were tending to come back:

First of all, they wanted to keep us in there, and then when they pulled it down they said we'll spread them about, but this didn't work... Most of the people who went out all those years ago, 10-15 years ago, most of them are back. Most of them went to live in Llanrumney or other estates, and most of them are back as big men with their own family, but they've moved back into the Bay. It gives us security as well.

9.5 Michael Robins said that sometimes he could not even walk through town without getting hassle from the police. In the last two weeks he had been stopped about six times:

They told me to report to central station, there was a warrant out for my arrest. I went there about three times and there was no warrant. It discourages me from going up to town, because they stop you in the middle of Queen Street and with people looking at you like you are a criminal, and you have to stand and wait while they check you out. If you complain you get a telling off and nothing happens. It is not worth bothering.

9.6 Particular police attention was directed at the organisation set up in the late 1960's called the Black Alliance. Special Branch began to investigate. Photographs were taken in the street. Gaynor Legall told us what happened in 1971 when she and a friend demonstrated in Ebbw Vale, Gwent, against the Springbok Rugby tour:

They took us into a room where there were four or so men in suits and they sat down and said 'what are you doing here?' We said demonstrating, and they said 'is it true that you are associates of?' and they brought out these dossiers and they had photographs, and names and addresses of friends... they accused one of the other girls that I was with of being an organiser.

9.7 We asked why the Black Alliance had been 'targetted' in this way. Gaynor Legall said:

It was political in the sense that what we were doing was questioning the white power structure and saying, why cannot we have a share of the power, why must it be in the hands of a few, why must the control of our lives be in someone else's hands. So if you class that as being political, yes it was, but we didn't belong to any political party. Very few of us knew anything about politics as such.

9.8 The consequence of this police attention, directly or indirectly was that the Black Alliance 'fizzled' out. They were refused permission to use the local community centre, on the pretext that it could not be used for 'political meetings'. People

connected with the community centre were approached by police and were warned not to have anything to do with the Black Alliance, and that they had only come to stir things up. The momentum of a valuable self-help organisation was lost and was never regained. As Alan Legall said 'everything is stopped before it starts.' Ironically, in the aftermath of the Scarman report 'fifteen years later they are now pushing for the things we were asking for then.'

9.9 All witnesses agreed that the image of racial harmony in Cardiff which was put about was a myth:

There were no racists down the Bay, black, white and different, any colour, you come down there and you are welcome, but for the police they have been racist towards us from my father's time.

Alan Legall continued that 'nobody from the Bay would join the police; its like joining the enemy.'

9.10 The state of relations between the police and the black community in Cardiff would justify an enquiry of its own. Alan Legall, asked how to tackle the deep rooted racism of which he spoke, replied:

Bring it all out into the open. Bring it right out into the open and see how many people it has happened to in that particular area, and then take it further afield. You come down there, there are a lot of things that go on down there which would take a long time to explain.

Our enquiry could only scrape the surface of these experiences.

9.11 There are important points of similarity between this and other evidence which we heard. When a community begins to assert its own dignity and to organise towards that end, and to express itself in ways which are considered unpalatable, it is likely to become the target of particular police attention and

harassment. Gaynor Legall said this in relation to the methods of political policing which had been used against the WSRM:

The police are using tactics that are, well known. They have been operating them for years and years and are now turning them against them (WSRM). But we have been the victims of it for generations.

CHAPTER 10

CONTROLS OVER THE POLICE

10.1 What can be done when the police break the law or abuse their powers? In this chapter we look at the *legal* controls, which are available to the individual citizen, and the *political* controls through the Police Authority and other political means.

Suing the Police

10.2 A person who has been wrongly arrested or prosecuted by the police may be able to succeed in obtaining compensation through a civil action in the courts. The possible claims which may be available are:

- for malicious prosecution: the claimant must prove that the police had no reasonable cause to bring the prosecution, and that they acted maliciously, for instance in fabricating evidence. The action is only available to an accused person who has been acquitted. The damages awarded can be very substantial, and can include 'exemplary damages' to punish the police for their wrongdoing.
- false imprisonment: a person who has been detained by the police will be entitled to receive damages unless the police can prove that they made a lawful arrest, i.e. that the arresting officers had reasonable cause to suspect that the person arrested had committed an arrestable offence, and that they gave the reason for the arrest. Even when the arrest is lawful, damages may be awarded if there is detention for an unreasonably long time. Huw Lawrence, one of those arrested in Operation Fire, was awarded £600 on that basis, and another Operation Fire claimant, Enid Gruffydd, received £1000 in an out of court settlement.

- for trespass to property: or for wrongful interference with possessions, in case of an unlawful entry or search.

- for assault, if a person is beaten up or arrested with unreasonable force.

10.3 These actions usually take a long time to bring to court, and are difficult to take on without legal representation, for which legal aid may be difficult to obtain. They can give an effective remedy to the individual victim, as in malicious prosecution and false imprisonment cases a trial by jury can be demanded. But they are not any form of control on the police, as even if the police have to pay damages, the individual police officer does not suffer any loss.

10.4 The existing procedure for dealing with complaints against the police has police officers investigating all recorded complaints made by the public. Investigation is obligatory unless the conduct complained of is already the subject of criminal or police disciplinary charges, and *may* be carried out by officers from another force at the Chief Constable's discretion or at the Home Secretary's insistence. The Police Complaints Board is the only wholly independent component of the complaints procedure — it consists of the Prime Minister's appointees, none of whom can have been policemen. The Board's powers are (i) oversight of all recorded complaints; (ii) possible insistence on disciplinary charges where the Chief Constable has declined to prefer them; (iii) possible insistence on disciplinary charges being heard by a tribunal of the Chief Constable plus two Board members, rather than the Chief Constable alone. In practice it very rarely dissents from the Chief Constable's decision not to prefer disciplinary charges, i.e. only in 0.2% of such cases.

10.5 The annual number of complaints recorded in the last few years is over 32,000. Of these, nearly half were either withdrawn by the complainant or else not proceeded with. Of the 50-55% investigated around 8-10% were substantiated

(i.e. around 4-5% of the total made) and of *these* about 15% result in either formal disciplinary hearings or criminal charges. That is less than one per cent of all complaints made. For criminal charges alone the figure is about one tenth of one per cent. The Board and more recently the Home Office Research Unit, have suggested that complaints of assault by the police are not always rigorously investigated. When a complaint is proceeded with the process takes, on average, 20 weeks to reach a conclusion. The Board has also declared its concern over the variation in the number of complaints received by different forces.

10.6 It is now generally acknowledged that there is widespread public concern over complaint procedures especially with regard to the police being their own judges. The statistics themselves might well be taken to throw doubt on their effectiveness. Further, 'the very formality of the procedures can clearly act as a deterrent to complainants ... (and) more important ... the individual may ... feel himself subjected to a degree of pressure to withdraw his complaint' by the police who are recording the complaint (House of Commons Home Affairs Committee Report on Police Complaints Procedure, May 1982). There can be no question that the number of complaints made is much smaller than the number of individuals with complaints to make. Several of those who gave evidence to the inquiry intimated either that they thought a formal complaint would achieve nothing, or that they were worried about future police 'attention' should they make a complaint.

10.7 Witnesses in the WCCPL survey after Operation Fire had the following to say about the police complaints procedure:

Despite recent changes I regard it as a farce.

It is the police who investigate complaints against the police.

We do not think making a formal complaint to be a good idea. It would likely cause us more trouble in the future.

We should have the right to complain to a totally independent and unbiased body.

10.8 In relation to the investigation currently being carried out by Mr. Rawlinson, Assistant Chief Constable of Merseyside into complaints about the conspiracy trial, one witness who was interviewed by two of his officers told us: 'The junior officer said "you realise that there are some who say that the verdict in the trial was a travesty of justice".'

The Police Authority

10.9 We heard evidence from one former member and one present member of the South Wales Police Authority and also from a former member of the Surrey Police Authority. Michael Antoniwi, the present member, spoke of the difficulties which he had experienced in exercising any responsible supervision. Although the Police Authority approved a budget every year, there was no detailed report which explained the full breakdown of the budgeted expenditure. Although tables of the number and type of complaints were presented at each meeting, the members of the Authority were not entitled to individual details of the complaints themselves and could not make any intelligent use of the information provided.

10.10 Michael Antoniwi spoke of the many policing decisions which were 'political', not in the party political sense, but because they affected people and the communities which the police were ultimately involved with:

The sort of policing we have within areas, the levels of policing; the extent of local involvement in the types of policing that they have within their areas; taking account of any particular problem that exists in areas whether it be

a particular social problem, ethnic problems and so on; the type of policing whether it be policing by means of a man on the beat, by means of vehicular policing, local stations or central stations, and all the different aspects of policing; these are matters which it seems to me the Police Authority, to have any effective role, must have some sort of say in. In my opinion, the Police Authority is totally impotent in being able to undertake any of these.

10.11 The reason why the Police Authority was impotent was, in Michael Antoniwi's words, that:

The Chief Constable is a totally arbitrary power, more accountable to government ministers than to a police authority, and the extent to which the police authority can have any effect whatsoever is completely dependent upon the extent to which the Chief Constable wishes to co-operate.

10.12 The Police Authority has no investigatory power. All it can do is to require that the Chief Constable submit to the Authority a report on policing matters as specified by the Authority. Even then the manner and thoroughness of the investigation is entirely in the hands of the Chief Constable, and if he does not wish to provide the report, he may refer the matter to the Home Secretary. The South Wales Police Authority has in fact requested a report from the Chief Constable dealing with matters which have arisen as a result of the conspiracy trial.

10.13 Michael Antoniwi contrasted membership of the Police Authority with membership of any other local authority committee. As a member of other committees, he had a right of access to virtually all information that was necessary for carrying out his responsibilities and he had the power to instigate changes in policy. But the Police Authority had no power to establish its own priorities. The priorities in the running of the police force and its maintenance were in the hands of the Chief Constable.

10.14 As a result the meetings of the Police Authority are short and devoted only to trivia. On the morning on which our enquiry started there had been one of the quarterly meetings of the South Wales Police Authority. It had taken 20 minutes.

10.15 Michael Antoniw had perceived a marked reluctance from the previous Chief Constable even to allow matters of concern to be ventilated at Police Authority meetings:

He was concerned that matters shouldn't be raised at Police Authority unless we felt it absolutely necessary, because of the fact that the press were there, and the press never understanding a matter properly would tend to blow up sensational aspects with regard to policing, and therefore if the matter could be sorted out with the Chief Constable in advance and without the necessity of public debate then that was desirable.

This enquiry considers that this is a thoroughly unsatisfactory, behind closed doors method of stifling debate on matters of great public concern.

10.16 The Police Authority has the power to dismiss the Chief Constable which may appear to be a powerful weapon. In practice, it is not. A new Chief Constable would only be selected from a list of approved applicants who in the South Wales Police Authority at least would only be asked a very limited number of questions before a choice was made.

10.17 Arthur True, a member of the South Wales Police Authority from 1973 to 1977, made similar criticisms. He put the present position very neatly:

It appears that the police have powers on the downward position towards the people, but the people have very little power upwards towards the police themselves, and I think we need very much to compare these.

10.18 Michael Antoniw, as well as other witnesses, considered that there was room for more energetic action by the South Wales Police Authority, even within their existing powers. In Merseyside and certain other Authorities, the Police Authority has had a considerable impact in getting important issues publicly discussed. We consider in the next section both what can be done within the existing law and how the law should be changed.

Control through the Community

10.19 We have referred to the evidence of how Syd Morgan, as a councillor, and Dafydd Elis Thomas as a Member of Parliament have sought to make representations and complaints to the police as representatives of their constituents. Dafydd Wigley, M.P., complained of a 'lack of sensitivity' at police headquarters when he made complaints or raised questions relating to matters of broader policy. We asked what efforts had been made following the publication of the Scarman Report, to create channels of consultation between the police and the community. Dafydd Elis Thomas said that he had been disappointed. While at the middle level, for instance at demonstrations, there was a readiness of individual officers to hold sensible discussions, 'at the Chief Officer level, there seems to be this reticence to consult'. Witnesses from the black communities spoke of liaison officers as being a useless channel for the ventilating of complaints:

Question: If you go to these liaison boards and tell them that this is what is happening?

Alan Legall: They know, its the same police you have reported to, they know. How can you tell them something you have reported to them. You just feel ridiculous.

This lack of public confidence in the existing channels of communication and accountability was a factor in influencing us to hold our enquiry.

CHAPTER 11

CONCLUSIONS AND RECOMMENDATIONS

Special Branch

11.1 Behind all the police activity which has been described to us are the officers of Special Branch. All the intelligence gathered from photographs, phone-tapping, address books and other sources is filed and interpreted by them. Their work is shrouded in a cloak of obsessive secrecy. Leon Brittan, when Parliamentary Under-Secretary of State at the Home Office in 1979, explained this by saying: 'We should face the fact that much of the work of the Special Branch precludes it from being conducted in the full glare of public scrutiny'.

11.2 We do not accept this paramount need for secrecy. It is dangerous in a society which calls itself 'free' for a body of people to be amassing material on a vast and unknown range of citizens. The first imperative, therefore, is for *more information*. We welcome the setting up of the Parliamentary Select Committee which will inquire into the Special Branch, and we will be submitting this Report to it as evidence.

11.3 At local level in particular, the people of Wales and other areas should have the right to know what the Special Branch is doing. After all, it is they who are in theory being protected. We have recorded that one Chief Constable, John Alderson of Devon and Cornwall, found that a wholly unnecessary range of organisations were the subject of Special Branch monitoring. What is the case in Wales? How many Special Branch officers are there in the various Welsh constabularies? How many citizens have files kept on them? What organisations are subject to routine monitoring? Do they include, as the evidence before us would suggest, the Campaign for Nuclear Disarmament?

Plaid Cymru? The National Union of Mineworkers? The organisations of the black community? We recommend that Police Authorities in Wales should require, and Chief Constables should furnish, a full report on the activities of the Special Branches in their areas.

11.4 If the information were made available, it would become possible to try to control and curtail Special Branch activities. The criteria referred to in David East's letter to us of 26th March 1984 define 'subversion' as:

activities which threaten the safety or wellbeing of the State, and which are intended to undermine or overthrow Parliamentary democracy by political, industrial or violent means.

These are words of no precision. They are capable of the most repressive interpretation: 'the wellbeing of the State'... 'undermine Parliamentary democracy'... 'political, industrial or violent means'. We note the 'or'; non-violent political activities are subversive if they are thought to threaten the wellbeing of the State; we would rather have said that the wellbeing of the State *requires* non-violent political activities to flourish. We recommend that the criteria of what constitutes 'subversion' be abandoned, and that police investigations should be undertaken only of people or organisations who are suspected of planning or carrying out *criminal* offences.

11.5 Whether or not the existing criteria of 'subversion' are scrapped, there is a need for a democratically accountable body, which at present must be the Police Authority, to insist on the pruning of unnecessary Special Branch activities. Once proper information was made available, this would be possible. We recommend that Police Authorities, when in possession of the relevant information, advise their Chief Constables of the need to eliminate from Special Branch activity the monitoring of organisations and individuals who have not committed, and are not likely to commit, criminal

offences, and to shred their existing files. And we recommend that Chief Constables act on that advice, and report to their Police Authorities on the action which they have taken.

11.6 Is there a need for a Special Branch at all? We think not. To the extent that people's activity is or may be criminal, the task of investigating it should be that of CID officers. The resources which they will deploy will, as in other fields of criminal investigation, be commensurate with the seriousness of the crime committed or threatened. We find objectionable, and wish to see disbanded, a body of officers whose job is to monitor 'subversive' activities. To justify their existence they will gather, not the minimum of intelligence that is necessary, but the maximum that is possible. The point was well put by Nick Davies and Ian Black:

Without any clear directives or supervision from the top, the local SB officer protects his own position by watching as many different groups as possible in case a superior suddenly asks him for information about one of them.

11.7 At national level there are some functions of Special Branch, such as the protection of British and visiting VIPs, the protection of embassies and diplomats, the watching of ports and airports, the vetting of applicants for citizenship, which need to be carried out by some department of the Metropolitan Police, with assistance from local forces when necessary. There have already been created a number of specialist units — the Anti-Terrorist Squad, the Diplomatic Protection Squad, and others — to which these functions could be allocated. This does not require, at least at local level, a 'Special Branch'. We recommend that Special Branch, as an arm of police forces in Wales, be disbanded.

A Police Ombudsman

11.8 In addition to changes in structure, there is a crying need for an independent authority which is capable of dealing

effectively with the grievances and complaints which the individual may have against the police. The existing Police Complaints Board is distrusted and discredited. The Police Complaints Authority proposed in the Police and Criminal Evidence Bill is unlikely to be any better. Under the Bill the vast majority of complaints will continue to be investigated by the police alone, and the role of the authority will be limited to that of 'supervising' the investigation of some serious complaints.

11.9 We believe that an independent body is required to investigate any complaint about which a member of the public is aggrieved. The experience of the Parliamentary Commissioner for Administration, and of the Local Government Commissioners, has been useful as an example of how maladministration by public officers can be investigated. We recommend that for each police area there should be a Commissioner for Police Complaints and Grievances or Police Ombudsman, with a staff capable of making thorough investigations.

Access to Information

11.10 The police are exempt from the provisions of the Data Protection Bill, which is designed to protect the individual from having untrue information about him or her stored by official and commercial agencies. Individuals have no means of knowing whether the police have files on them; what is in them; and whether the entries are true or false. Unusually, the police file on Robert Griffiths became available to him because of the trial. John Osmond summarised what was revealed:

the inaccuracy of their information about Griffiths was epitomised by their own file on him which became available during the course of the trial. This states, correctly, that he became a political research officer with Plaid Cymru in 1974. But it goes on: 'He resigned in 1975 because of a difference of opinion and took up a teaching post at (a named) junior school ... in 1976 he was re-

employed by Plaid Cymru as research director.' This information is incorrect — Griffiths did not resign in 1975 and has never been a teacher. The police record continues that he was dismissed by Plaid Cymru in 1979 'because of his extremist views'. This again is not the case. According to Plaid Cymru at the time Griffiths was made redundant in 1979 because of financial problems. As Griffiths himself commented: 'These distortions and prejudiced comments depict me as an extreme, unstable and fractious individual and therefore the deserving target of arrests and harassment.'

11.11 We consider that an individual should have a right to know what officers of the state are recording about him or her, subject only to the need to protect pending criminal investigations and matters of national security. But who should decide what is to be revealed? Under the United States Freedom of Information Act, the courts are the ultimate arbiters. But the record of British judges on the disclosure of information is deplorable (we recall for instance their condemnation of Harriet Harman for showing to a journalist a Home Office document which had been read out in open court). We recommend that members of the public should have the right to inspect the information stored about them by the police, through the medium of the Police Ombudsman. If the police object, the Ombudsman can inspect the file and make a ruling on what parts of it, if any, should be held, but only on strict grounds relating to crime and national security.

Immediate Measures

11.12 There are far-reaching recommendations which would require legislation. There are many other measures which need to be taken here and now to restore a reasonable degree of confidence between the public and the police in Wales.

11.13 The Police Authority is the body which must be used, within the present legal framework, to secure a greater degree

of accountability. It needs first of all an adequate independent staff. At present, the South Wales and other Police Authorities are serviced by the police. They have no capacity to do any research or obtain any information, other than through the police. There is no legal reason why it should not have staff paid out of the funds of the constituent local authorities. We have only heard evidence about the South Wales Police Authority, where we have no doubt that such a staff would considerably strengthen the ability of the democratically elected members to take an informed part in police affairs. We recommend that Police Authorities take on independent support staff capable of providing the Authority with the legal and background information, research, policy papers, and other assistance which it requires.

11.14 The law is by no means clear on the ambit of the Police Authority's powers. It has the duty under the Police Act 1964, section 4(1) 'to secure the maintenance of an adequate and efficient police force'. In our view that must enable, indeed require, the Police Authority to lay down policy instructions which will secure their statutory objective. Lord Scarman in his report on the Brixton Disorders commented thus on the duty of the Police Authority:

But it is also clear that many Police Authorities are somewhat uncertain of themselves and do not always exercise the firmness which the statute envisages as necessary to the discharge of their awesome responsibility to secure the maintenance of an adequate and efficient police force for their respective areas. I would remind them that Section 4(1) of the Act makes it their duty to exercise for that purpose the powers conferred on them by the Act: and there can be no doubt that in our society a police force which does not consult locally, will fail to be efficient.

This suggests to us that the Police Authority can be much more interventionist than is generally supposed.

11.15 Under the Act, the police force maintained for an area

'shall be under the direction and control of the chief constable', who is appointed by the Police Authority. Chief Constables have generally insisted that they are in charge of all operational matters, to which they give a wide interpretation. But the words 'operational matters' appear nowhere in the Act, and the right of the Chief Constable to direct and control the force is *subject to* the over-riding duty of the Police Authority to secure and maintain an adequate and efficient police force. Accordingly there is much scope, within the present law, for a much wider responsibility to be taken on by Police Authorities than is the case in South Wales. While a more clear and precise definition of legal responsibilities is needed, we recommend that Police Authorities should take on the responsibility of determining what policies are to be followed in order that their police force be efficient, and that Chief Constables respect and implement those policies.

11.16 There are other problems which can be resolved without legislation. In the sphere of budgeting, police authorities pay half of the costs of the police force, without having any proper budgetary control. In times when strict control of public expenditure is being enforced, it is deplorable that in South Wales at least, the police budget is presented in a way which can not be scrutinised in any detail. We recommend that Police Authorities set up proper systems of budgetary control which enable them to identify, discuss, and if necessary vote down, particular items of proposed expenditure.

11.17 Another weapon in the hands of the public is the power of the media to investigate and inform. The members of a Police Authority, as in any other local government committee, should if they are doing their job be constantly raising issues, asking for information, voicing their constituents' complaints. Even if they do not get a satisfactory response, the publicity generated can have an effect. This interplay is part of the essence of an active democracy, and it is wholly lacking in police affairs. The power to raise issues is there in the Act: for under section 12(2):

The chief constable of a police force shall, whenever so required by the police authority, submit to that authority a report in writing on such matters as may be specified in the requirement, being matters connected with the policing of the area for which the force is maintained.

We recommend that this power be actively used, in open meetings of the Police Authority and its committees, to raise matters of local concern about police affairs; and that both members of the authority and the media use the opportunity for publicity to ventilate such matters and encourage public debate about them.

11.18 The composition of Police Authorities is unsatisfactory. There is a legal requirement for one-third of their membership to be magistrates, who are appointed by the Lord Chancellor by a secret process. We consider the continued presence of magistrates to be undemocratic and undesirable. We recommend that the whole authority should be composed of elected members.

11.19 While the latter would require legislation, another improvement in the composition of Police Authorities would not; that is, to set up sub-committees to deal with matters affecting particular localities within the area of the Authority. Police Authorities are large in area and can well become remote from people they are intended to serve. There is an existing sub-committee structure, which could be built on to form a network of local sub-committees. The sub-committees would be composed of members of the Police Authority from the local area, and local community representatives could be invited to take part—though without a change in the law they could not have voting rights. We recommend that such a network of local sub-committees be created.

11.20 Attempts to create local liaison committees have not worked well, principally because they have no powers. Furthermore, it has been left entirely to the police to decide the

composition of the committees, and the level of consultation. The Police and Criminal Evidence Bill proposes that:

Arrangements shall be made in each police area for obtaining the views of people in that area about matters concerning the policing of the area and for obtaining their co-operation with the police in preventing crime in the area.

Such arrangements will be no more effective in making the police accountable to the community, in the absence of real powers to determine policy. We believe that proper accountability can only come from an Authority which has both the legal power and the political will to enforce upon the police the policies which its members, democratically representing the community, consider to be right.

Phone Tapping and Bugging

11.21 It is widely accepted that the time to review and control phone tapping and bugging effectively is long overdue. Evidence presented to us indicated the concern of law abiding citizens that they could no longer use their phones as a means of *private* communication. The level of distrust has reached a point that some people and organisations feel obliged to use the telephone as if it were tapped. We believe this form of invasion of privacy and social control to be unacceptable. Apart from public concern, the European Court of Human Rights is also likely to find the methods of control currently operating to be inadequate. David Norman, general treasurer of the POEU, whose members execute tapping said

To our certain knowledge, the process of tapping telephones is systematic and widespread, far more widespread than we are led to believe by official statements.

11.22 Although a tap can take place locally there is also a centralised system in London which is known as 'Tinkerbell'. It has the capacity to monitor 1,000 phones simultaneously.

Systems are being developed which are triggered by voice patterns or by the selective use of 'key' words. It is in such ways that the security forces flout the European Convention. Efforts to shore up the UK position were recently made in the Telecommunications Bill, but the situation remains unsatisfactory and cries out for wholesale reform and appropriate legislation. We recommend that in the first instance, a Parliamentary Home Affairs Select Committee be established to investigate phone tapping and bugging and to make recommendations to control these practices.

11.23 We recommend that interference with personal communication (whether phone tapping or bugging) should be illegal unless duly authorised by a High Court judge. The applying body must be able to show cause to the court for such authority. If no criminal proceedings are brought against the person or group which is tapped then after the warrant has expired we recommend that the person be informed that a tap has taken place, as is the law in the Federal Republic of Germany.

11.24 Currently, English law does not recognise the right to privacy regarding tapping. We recommend that unless the tap is lawfully executed there should be a civil right of action carrying exemplary damages.

11.25 We consider that the Police Ombudsman should be empowered to check that the procedures are being observed by the police and authorised to examine their records on these matters. In addition the Ombudsman should be authorised to investigate individual complaints of phone tapping and bugging.

11.26 Finally, we recommend that interference with the mail, telex, and telegraphs be covered by the above procedures.

11.27 A number of methods of surveillance have been described to us about which it is difficult to make hard and fast rules: the taking of photographs and film at demonstrations; the use of police officers to watch the movements of suspects; and the use of informers and infiltrators.

11.28 Some of these matters can be controlled by the law. The open trailing and watching of an individual, as was done in the case of Robert Griffiths, is a form of nuisance which is illegal under existing law. The use of agents provocateurs ought to be illegal, but is not. It is not a defence to a criminal charge to prove that the accused was entrapped into committing it by an agent provocateur. We recommend that such a defence, which is recognised in the United States, becomes available in the British courts.

11.29 In the case of other methods we criticise not so much the act done but the choice of target. Photography, video film, surveillance, informers — these are all legitimate weapons for the prevention and detection of crime, but not for the monitoring of political activity. With road blocks too, whether or not the Police and Criminal Evidence Bill is passed, the problem will be to control what the public may see as an excessive use of police power. How then can these acts be controlled? Only through forms of accountability to the public. This brings us back to our earlier proposals. Complaints about, for example, the excessive use of cameras by police at demonstrations, should be capable of redress *both* by members of the Police Authority obtaining information, questioning the Chief Constable, voicing their concern, and if necessary directing that such methods are not conducive to the efficiency of the police force; *and* by individual complainants seeking the intervention of the Police Ombudsman, who will investigate and make a judgment upon the need for the photographs to have been taken.

11.30 Our recommendations about the conduct of police investigations must take account of the Police and Criminal Evidence Bill. If the Bill had been law, the plight of those arrested during the bombing investigation would have been even more desperate. They would have been suspected of what the Bill calls a 'serious arrestable offence'. They would have been legally detained in police custody for up to 96 hours, provided only that a magistrates' court, in an in camera hearing, agreed that this was necessary. They would have been held completely incommunicado for 36 hours, quite legally, provided that a superintendent gave authority.

11.31 Others would have been affected by the Bill if it had been law. Road checks would become legal whenever a superintendent thought that a 'pattern of crime' in the area made them desirable. Searches of premises could be authorised by a magistrate, even though the occupier of the premises was not suspected of any offence. Goods could be seized if the police thought it necessary to seize them whether or not the owner was arrested or even suspected.

11.32 According to the evidence before us, the police broke the existing law repeatedly. The Police and Criminal Evidence Bill would give the police, in many respects, the right to do legally what they have been doing illegally. We are seriously alarmed at the extent of repressive police behaviour which would thus become legitimised. We therefore recommend that the Police and Criminal Evidence Bill be withdrawn.

11.33 The Bill, and in particular its provision for 96 hour detention, gives parliamentary blessing to developments in policing by which 'evidence' is more and more secured by interrogation and confession, and less and less by civilian co-operation and forensic examination. That trend, which encourages the most authoritarian and oppressive elements in the police force, has to be reversed. The key lies in the *protection of the suspect inside the police station.*

Tape Recording

11.34 David East has said to us in a letter that he agrees that 'there is value in the use of video or tape recorders during police interviews'. He emphasised to us his wish 'that the police interviews in connection with the trial you have been considering had been recorded'. We agree. Either there were confessions, or there were not (or in Nicholas Hodges' case, a confession under severe duress). The tape recorder would have provided a conclusive record. Even more, the presence of the tape recorder would prevent officers from either threatening suspects or making up confessions which were never made. In all probability the trial of several of the defendants with all its stress to those involved, and its cost to the public purse, would have been avoided. The recording would also protect the integrity of officers operating within the law.

11.35 It must be emphasised that there is nothing to prevent the immediate installation of tape-recording equipment in police stations. If the Police Authority consider that to do so would secure a more efficient police force, they have the duty to order that to be done. David East referred to 'considerable financial and logistic problems'. The financial problems are a matter for the Police Authority. The logistic problems could, we believe, be easily overcome if the will were there. We recommend that the South Wales Police Authority, and other Police Authorities in Wales, direct the installation of a system of tape recording in all major police stations. And we recommend that Chief Constables ensure that such installations are used in all interrogation of suspects in cases of major crime.

Legal Advice

11.36 The other main protection for the suspect in the police station would be the right to have access to a solicitor. It is obvious to us that the reason why the police, in this investigation as elsewhere, refused access to solicitors, was that they wished to put improper pressure upon people in their

custody, in order to obtain confessions. We recommend that the right to see a solicitor should be absolute, without any exceptions. Pending legislation to that end, it is the responsibility of the leadership in police forces to see that their subordinates do not evade the existing rules by refusing access to solicitors on spurious grounds.

11.37 Similar considerations apply to the informing of friends and relatives that a person has been arrested. We recommend that there should be an absolute right, subject to no exceptions, to have a friend or relative informed. The reason usually given, that accomplices may be tipped off, is not good enough. The over-riding principle is that people should not be held in secret. If there are a number of accomplices, the answer is to arrest them in a simultaneous operation, as is frequently done.

An Exclusionary Rule

11.38 What should happen when the law is broken? At present there is no incentive for the police to keep to the law, since if they break it there is no penalty. Evidence obtained in breach of the law is admissible, subject only to a judicial discretion which is rarely exercised against the police. We recommend that there should be an exclusionary rule, as is the law in the United States, by which evidence illegally obtained may not be admitted before the jury.

Court Proceedings

11.39 The Bail Act 1976 section 4 establishes a presumption that defendants are entitled to bail. This presumption is not being put into practice. The number of defendants remanded in custody continues to rise and swell the prison population which is already the highest in Western Europe. The length of time prisoners are remanded in custody also continues to grow. We recommend that the Lord Chancellor's Department investigates the operation of the Bail Act and issues instructions to the magistracy to implement the purpose of the Act.

11.40 Since a decision called the Nottingham Justices Case in 1980 a fresh application for bail by defendants remanded in custody is impossible unless there is a material change of circumstance. This ruling has been widely criticised. The *New Law Journal* stated 'It is strongly submitted that the Nottingham decision is very bad.' The *Criminal Law Review* declared

The Nottingham Justices has seriously undermined the Bail Act 1976, one purpose of which was to reduce the number of innocent people remanded in custody for weeks pending their trial.

Given the widespread professional and lay dissatisfaction we believe the ruling in this case should be overturned and each application for bail should be treated on its merits.

11.41 The Bail Act 1976 required that defendants remanded in custody should appear in front of the magistrates not less than every 8 days. Historically this was to ensure that they were alive. The Criminal Justice Act 1982 allows defendants to be remanded in custody for up to 4 weeks without requiring their physical presence in court. We consider this to be a retrograde step given that 'out of sight' may also mean 'out of mind'. The courts should not remand people in their absence.

11.42 The length of time that people are remanded in custody awaiting their trial continues to grow. The remand population has almost doubled in the last 10 years and the length of time on remand has more than doubled. In September 1982 more than 100 people had been remanded in prison for more than one year awaiting trial. We recommend that the Select Committee on Home Affairs which is investigating this subject take urgent steps in order to remedy this matter. In particular, we recommend the introduction of a system similar to that which operates in Scotland. In Scotland there is a maximum time on remand for trial in the magistrates court of 40 days and 110 days for Crown Court trials. If the case is not brought within these periods then the prosecution lapses.

11.43 We were concerned that the searching of the public and their possessions by the police in the sight of magistrates might improperly influence the bench when hearing bail applications. We consider that if searches are considered necessary they be conducted outside the courtroom and not within the sight of sitting magistrates.

11.44 We consider that extended police powers of detention up to 4 days without bringing a charge will result in an increase of 'confessions' and 'verbals'. We also believe that there will be an increasing number of retractions of such statements in court on the basis that they were not voluntary. The role of the alibi witness will become more important. An alibi witness should be interviewed in the presence of a solicitor and be allowed to make the statement in his or her own words and write it personally if so desired.

11.45 The UK is the only Western European country which makes no formal provision for compensation for time spent on remand for those who are found not guilty. David Mellor, MP, Home Office spokesman, stated in December 1983 that

in very exceptional cases, ex gratia payments may be made out of public funds to defendants acquitted at trial after a period of remand in custody.

No person has received compensation in the past two years. We recommend that a compensation fund and scheme be established to make financial redress to those who have suffered financial, personal, family or social distress and hardship as a result of remand periods followed by acquittals in court.

T r a i n i n g

11.46 David East informed us that

police recruit training has been extended this year from 10 to 14

weeks with the principal objective in mind of enhancing community/social education for police officers.

Our comment on this is that even 14 weeks is wholly inadequate. In few walks of life are people with so little training given such far-reaching powers to affect the lives of their fellow men and women. Lord Scarman, looking at the Metropolitan Police where the training period was 15 weeks, said:

The recruit to a British police force receives a good deal less training than his counterpart in a number of other countries. I do not see how the increasing complexities of a police officer's task can be adequately covered even at the basic level in the present initial training period ... I therefore recommend that the minimum length of the initial training period for police recruits be increased to 6 months.

We agree. In addition there needs to be continuing in-service training, to keep officers up to date with current opinion and changes in the law and practice of policing.

The enquiry received financial sponsorship from a large number of organisations and individuals in order to meet its target of £2,000. Those who donated £10 or more and wished to be named are:

Riverside Branch Labour Party
Plasnewydd Ward Labour Party
Cardiff North Constituency Labour Party
Cardiff West Labour Party
Caerphilly Constituency Labour Party
Cangen Bro'r Preseli ac aelodau unigol
Plaid Cymru Cardiff West
NALGO Vale of Glamorgan Branch
NALGO WJEC Branch
NALGO Gwent County Branch
NALGO Wye Water Services
NALGO South Wales Housing Association Branch
ACTSS 4/45 Branch
National Association of Probation Officers South Wales
Branch
Cymdeithas Cyngorau Bro a Thref Cymru
Balliol College JCR
UCC-UWIST Joint Plaid Cymru Society
Cymdeithas Gymraeg Caerdydd
Undeb Cenedlaethol Myfyrwyr Cymru
Gwerinwyr Dyffryn Tywi
Cofiwn
G.R.Wilson, Newport
Dafydd Huws, Caerffili
Gillian Clarke, Caerdydd
Meredith Edwards, Yr Wyddgrug
Gwilym Prys Davies, Tonteg
Mary Edwards, Caerdydd
Gilly Adams, Caerdydd
Dafydd Orwig, Bethesda
Wyn Williams, Bangor
Eiryl M. Evans, Rhondda
Ieuan a Maisie Gwynedd Jones

Miss M. Thomas, Trelech
Mary Giles, Cardiff
R.J. Owen, Aberystwyth
Branwen Jarvis, Bangor
Robat ac Enid Gruffudd, Talybont
Elisabeth Goffe, Colwinston
Kay Francis, Brechfe
Cliff Bere, Y Barri
T.R. Williams, Rhondda
Meredydd a Phyllis Evans, Caerdydd
Bryn Jones, Aberhonddu
Joe Hodges Memorial Fund (£450)

We also wish to thank the many people who gave of their time, skills and resources to make the enquiry and report possible.

The Welsh Campaign for Civil and Political Liberties (WCCPL) is run by volunteers and is totally dependent on public subscriptions for its funding. WCCPL has no association with any political party believing that the issues that concern it transcend party politics. It was established in 1980 in response to 'Operation Fire', which involved officers of the four Welsh police forces detaining over 50 people in connection with the second homes arson campaign. This activity was documented in *Operation Fire*, prepared and published by WCCPL.

WCCPL operates as an educational group by providing speakers on civil liberties issues. It has also organised a number of day schools in South Wales. It briefs MPs, local councillors and acts as a pressure group to improve civil and political rights.

It also publishes a quarterly newspaper entitled *Writing on the Wall*. This is the only paper which concentrates on Welsh matters and provides the reader with information and analysis on issues of current concern.

We need your assistance in order to remain operational. We need a regular commitment of money. Please consider making a banker's standing order to WCCPL; taking out a subscription to *Writing on the Wall*; making a donation to WCCPL; offering to sell copies of *Writing on the Wall*. Without your practical support our efforts may not be enough.

You have read this Report. Judge WCCPL on what you have read. Are we worth supporting? If the answer is 'yes', then get your organisation, trade union, party to affiliate/subscribe to the paper.

Subscription to *Writing on the Wall*: £4 (waged), £2 (unwaged)
Affiliation: £7 (groups). (Prices correct at time of publication)

Personal donations and in particular Standing Orders (for any amount) should be sent to WCCPL, c/o 13 Dogo Street, Cardiff CF1 9JJ.

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